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Indexing

Abstracting

## ASSESSING RUSSIAN IMPACT ON THE WESTERN BALKAN COUNTRIES' EU ACCESSION: CASES OF CROATIA AND SERBIA

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### *Abstract*

*The matter of EU enlargement to the Western Balkans has become overshadowed by pressing issues such as Brexit, the rise of the radical right and international terrorism. Notwithstanding the pressure to address these issues accordingly, increasing tensions and ethnic outbursts across the Western Balkan region are reason enough for the European Union to devote significant attention to accession talks. This article addresses the Western Balkan countries' Europeanization process with consideration of Russia as an external actor. By assessing the candidate countries' progress amid EU negotiations, the article suggests that the countries' bilateral ties with Russia have an impact on the Europeanization process which is particularly visible in Chapter 31 Foreign, security, and defence policy of the *acquis communautaire*. The broader geopolitical framework that comprises the multifaceted relationship between the EU and Russia is crucial for understanding the dynamics of EU-Western Balkans-Russia triangle.*

*Keywords: Western Balkans, European Union, Europeanization process, Russia, EU-Russia relations, geopolitics*

## INTRODUCTION

There “will be no enlargement in the next five years, the EU needs to mark a pause in its enlargement process so that we can consolidate what has been done with 28”, were the exact words of president of the European Commission, Jean-Claude Juncker, in 2014, when he reassured the public that no further enlargement would take place under his presidency. Although more than half his mandate has already passed, recent developments do not provide hope for a change after Juncker leaves his post. Global changes which brought about the (un)expected presidency of Donald J. Trump might alter the nature of US foreign policy in Transatlantic relations and affect further EU transformative power in its



neighbourhood. The presence of various external actors throughout the Western Balkan region might stifle countries' progress towards the EU due to their various security, economic, and political interests. Along these lines, this article sees its purpose in inspecting one of those external factors which have a sound possibility to impede the progress toward the EU.

This article proves that the Western Balkan region does not rely solely on the EU, but also on other external factors which have a real possibility to exert influence through various channels including, but not limited to, pragmatic and materialistic factors which relate to economic, security, and geopolitical benefits. By looking at i) visits and statements of high officials, ii) country's stance on sanctions against Russia, and iii) European Commission progress reports with a special emphasis on *Chapter 31 Foreign, security, and defence policy* (hereinafter *Chapter 31*), the article demonstrates that Russian leverage in countries which tend to nurture closer bilateral ties with Moscow comes at the expense of hindering the Europeanization process at times when EU-Russia relations are overly negative. The cases of Croatia and Serbia are subjected to in-depth scrutiny within a closely defined framework. The periods of positive (2008-2011) and negative EU-Russia relations (2012-2016) were chosen according to the work of Forsberg and Haukkala (2016). The article encourages two research questions: "How do country's close bilateral ties with Russia affect the Europeanization process?" and "How could the volatile nature of EU-Russia relations be the reason for stalling the Europeanization process in countries with closer ties to Russia?"

## **RATIONALE BEHIND THE WESTERN BALKANS' EU ASPIRATIONS**

The basic equation underpinning the enlargement decision for eligible neighbouring states has not changed: the benefits of joining the EU (and the costs of being excluded from it) create incentives for governments to satisfy EU's extensive entry requirements (Vachudova 2014, 128). National governments have an incentive to co-operate where policy coordination increases their control over domestic policy outcomes, permitting them to achieve goals that would not otherwise be possible (Moravscik 1993, 485). The reasons for EU to support enlargement to the WB are the same as for earlier enlargements: fostering stable democratic regimes in the EU's backyard (or internal courtyard). There is the perception of abiding geopolitical risks: the EU will pay the price in myriad ways for ethnic conflict, economic collapse, lawlessness, instability and poor governance in the region if it does not pursue enlargement (Vachudova 2014, 126). The escalation of ethnic and political conflicts in a fragile WB region could cast doubt on the EU transformative power, effectiveness and credibility as a foreign policy actor. If the pace [of enlargement] does decelerate, overshadowed by the economic and political crises within the European Union, Europe might lose the Balkans once more to nationalism, violence and further breakdowns of agreed states and borders, or it might lose its leverage to other actors who may not share similar views and values with the EU (Balfour and Stratulat 2011, 2).

Academic works so far have sought to examine the EU strategy towards WB countries, as well as the ongoing democratization process (Türkes and Gökgöz 2006; Rupnik 2011; Veljanoska et al. 2014). Türkes and Gökgöz (2006) put forward an argument how the EU strategy as integrated and effective seem quite reasonable, particularly if one considers the quantity of post-Dayton EU initiatives. Blockmans (2007) argues how

mismanagement of the remaining ethnic-territorial and constitutional issues in the WB could have severe and destabilizing consequences, including a greater likelihood of political extremism, an increase in organized crime and other illegal economic activities, terrorism, armed conflict and further human displacement. Leaving WB countries to deal with the remaining ethnic-territorial and constitutional issues alone would have a damaging effect, which would eventually lead to a negative spillover onto neighbouring EU member states.

## **RUSSIA AS AN EXTERNAL (F)ACTOR**

Russian interests in WB are driven by several factors. Firstly, Russia, being a permanent member of UN Security Council, has the right to veto every decision aimed at WB countries that does not match Russian interests. The Kremlin's actions in the region – including meddling in the domestic politics of Former Yugoslav Republic of Macedonia, Bosnia and Herzegovina, or Montenegro, and wielding its UN Security Council veto on Balkan matters, or threatening to – have only reinforced the notion that Russia “is back” in the region (Lasheras et al. 2016). It makes Russia present in the region not only via disinformation strategy but also by directly influencing political debates and interfering in countries' internal affairs, as it was the case in 2016 when Russia was accused of organising plot to assassinate Montenegrin Prime Minister (PM) (Forster 2016). Secondly, Ralchev (2012) argues how the WB region is of strategic importance as a transit route for Russian gas. Where gas is imported, Russia's Gazprom often enjoys exclusive rights with respect to access to infrastructure and other non-competitive privileges, such as a prohibition of re-sale or re-export (International Energy Agency 2008). Thirdly, Clark and Foxwall (2014) emphasize this ideational dimension of Russian foreign policy which manifests itself through Slavic roots and Orthodox religion in some countries in the Balkans. Common traditional and cultural values again after the Soviet collapse became the foundation for dialogue at a high political level between Russia and the Western Balkans leaders (Lo 2002).

Russia's impact on EU external governance is also detectable. The external governance is determined by the EU's power and its interdependence with regard to third countries as well as competing “governance providers” in its neighborhood and at the global level – mainly the US and Russia (Lavenex and Schimmelfenig 2010). The EU enlargement has indirectly bolstered an atmosphere of contestation between the EU and Russia not only in the shared neighborhood (Ukraine, Moldova, and South Caucasus) but also in WB region where Russia has its geopolitical interests. The European Union is not only the primary trading partner but also a source of identity for, and a challenge to, Russia's domestic and foreign policy choices (Forsberg and Haukkala 2016, 4).

By enlarging to the East, the EU had the leverage to influence the wider environment in which Russian economic interests were challenged. [M]any issues where the EU has tried to exercise its influence have been matters that have belonged to Moscow's own remit as a fully sovereign decision-maker (Forsberg and Haukkala 2016, 9). Moscow's strategic alliance with several WB countries provides a low-cost opportunity for Russia to undertake hybrid action to undermine European objectives in the Balkans (Weslau and Wilson 2016).

## SCRUTINIZING COUNTRIES' TIES TO RUSSIA AMID EU NEGOTIATIONS

Croatian progress toward the EU was determined more by its neighbours, rather than other external factors. According to the 2008 progress report, regional disputes with Slovenia over borders and tensions with Serbia over Serb minority in Croatia, as well as unresolved war crimes and mutual file suits before International Criminal Tribunal for the former Yugoslavia (ICTY), were to be strengthened in the future. In point of fact, the analysis of progress reports did not detect any proof of Russian impact on Croatian accession negotiations during the period 2008–2012 which also marked last years of negotiations. The only disagreement between Croatia and the EU over Russia was about visa facilitation regime, although the decision to grant a temporary free visa for Russian citizens was economically motivated, rather than showing any signs of purposefully countering EU regulations.

With respect to *Chapter 31*, between the 2008 and 2011, Croatia had already made a substantial progress and had reached a high level of alignment with the EU regulations. Positive expressions were used to describe Croatia's progress: "country remains committed", "continued to support", "reinforced its participation", "efforts are continuing", and "adopted the relevant decisions" (Croatia 2010, 2011 progress reports). The European Commission was fully satisfied with Croatia's cooperation, especially with the UN Security Council as a non-permanent member, OSCE, as well as with NATO, the member of which Croatia became in 2009. By 2011, Croatia was already a member of the UN, the OSCE, the Council of Europe and NATO, which enabled the country to actively take part in the decision-making process in these organisations. In 2012, a year prior to joining the EU, Croatia succeeded in meeting all the requirements concerning *Chapter 31* and was ready to implement the *acquis*.

Apropos of Serbia, during the period of positive EU-Russia relations (2008-2011), there were no statements which would indicate that the cooperation with Russia would, in any case, interfere with Serbian progress in EU negotiations. Moreover, European Commission placed a special emphasis on the process of privatisation and liquidation of socially and state-owned enterprises as one of the key priorities of the European Partnership for Serbia (Serbia 2010 progress report). A Memorandum of Understanding with Russia on energy comprised several agreements, including privatisation and modernisation of oil company NIS, completion of the construction of underground gas storage facility and the passing of the Northern branch of the South Stream pipeline through Serbia (Serbia 2008 progress report). Reports have assessed Serbia's foreign policy cooperation with four main pillars – the EU, the US, Russia, and China, as "good".

As regards to the *Chapter 31*, 2011 and 2012 progress reports show Serbia's positive advancement in alignment with the majority of EU declarations and Council decisions, as well as participations in CSDP missions. Judging by the use of positive expressions – "engage actively", "continued to implement", "improved its alignment", "agreed to participate", "preparations are well on track" – European Commission was satisfied with the overall advancement in *Chapter 31*. Unlike previous reports, the 2014 and 2015 progress reports brought more disagreements regarding CFSP. Although the 2014 report noted that Serbia supported the sovereignty and territorial integrity of Ukraine, the main problem was Serbia's absence at the vote of UN General Assembly Resolution on the

territorial integrity of Ukraine. Another major disappointment for the European Commission came in light of restrictive measures which were introduced in response to the illegal annexation of Crimea when Serbia refused to adopt Council's decision. At the end, overall assessment of Serbia's performance in *Chapter 31* lost its overly positive adjectives from the previous reports and was downgraded to an expression "preparations in this field are on track" (Serbia 2014 progress report). In the 2015 progress report, the Commission recognized the newly formed geopolitical context with respect to Ukraine and placed a special emphasis on "the improvement of alignment with EU declarations and Council decision" alluding to Serbia's refusal to align with the Council's decision a year prior to it. Also, conducting joint military drills was seen as the "continuation of high-level contacts with Russia".

### **COUNTRIES' FOREIGN POLICY OUTLOOK**

Croatia's state visits and official talks with Russia were mostly held in the first period of the analysed time frame (2008-2011) and were based on economic talks and cooperation in technical, energy and tourism sectors, rather than being politically motivated. Both President Mesic and PM Kosor sought to deepen economic ties with Russia and further strengthen mutual relations. "There is a lot of space for progress in relations between Russian Federation and Croatia" and "Croatia, being the 28<sup>th</sup> EU member, will absolutely support cooperation between the EU and Russia", noted PM Kosor in Moscow in March 2010 (Government of the Republic of Croatia 2010). Close relations between Croatia and Russia continued in 2013 when President Josipovic held brief talks with MFA Lavrov on the sidelines of the Munich Security Conference and stated that "Croatia will become a member of the EU in less than half a year, which will mark a new chapter for relations between Croatia and Russia. We hope that our governments will use our membership in the EU to contribute to the cooperation between our two countries" (Tportal 2013).

The example of how political tensions can result in the rupture of the economic relations came on the eve of Croatian-Russian Economic Forum which was supposed to take place in November 2016. Following PM Plenkovic's official visit to Ukraine, where he stated that "Croatia's experience in peaceful integration of occupied areas could be very useful to Donetsk, Luhansk, and Crimea" (Government of the Republic of Croatia 2016), the Forum was cancelled as Russian Ministry of Foreign Affairs expressed concerns about Croatia meddling into Ukraine internal affairs.

Conversely, Serbia-Russia relations reached new heights with Russia becoming Serbian voice in the UN Security Council on matters of Kosovo and Metohija. In the period between 2008 and 2016, two Russian presidents, the PM and Minister of Foreign Affairs (MFA) visited Belgrade eight times, while Serbian officials were hosted in Moscow nine times in total. There was at least one official visit per year among the highest ranked officials of Serbia and Russia taking place either in Belgrade or Moscow, whereas Croatia never saw President Putin paying an official visit to Zagreb, neither had Russian MFA Lavrov been to Croatia. President Medvedev in 2009 and President Putin in 2011 (his first visit after ten years) marked their presence in Belgrade and granted Serbia the opportunity to combine two important foreign policy aspirations: EU membership and Russian partnership.

In 2014, when EU-Russia relations were on the brink of collapse due to the Russian annexation of Crimea, Medvedev and Putin once more visited Belgrade. By referring to the “common Slavic background, language, faith, traditions, and culture, but also the fact that Russia and Serbia have always been on the same side”, the former President Nikolic emphasized how “invaluable Russian support for maintaining the territorial integrity and Serbian independence is, specifically regarding Kosovo and Metohija” (Kremlin 2014). In December 2016 during the official visit of MFA Lavrov to Belgrade, MFA Dacic praised Serbian relations with Russia. “Without Russia, it is impossible to protect our territorial sovereignty. When we talk about Russia, we talk about our future. Serbia will never be anti-Russian country. We will not join sanctions against Russia. And we certainly do not intend to become NATO members” (Telegraf 2016).

The divergence between Croatia and Serbia can also be observed in the matter of sanctions against Russia. Former Croatian PM Milanovic stated how “Ukraine is falling apart as a country, and Russia, who has gone beyond what is acceptable in Crimea, should be warned not to go further” (Novilist 2014). Going against the unanimous EU decision was, therefore, not even considered among Croatian political leadership, as political relations with Moscow were always of a more irresolute nature. Nonetheless, rather than halting all political tasks with Russia, Croatia decided to adopt a pragmatic stance and campaigned for a two-way communication and a political dialogue as the only way for resolving the unfolding crisis. On the contrary, Serbia justified the unequivocal support for Russia amidst Ukrainian crisis by economy losses that sanctions would bring to financial and energy sectors, in particular. This would leave Serbian economy even more vulnerable and unable of undertaking reforms which are necessary to keep the pace with the EU obligations under *acquis* (EurActiv 2016). When a new round of sanctions came on the EU agenda, Serbian MFA Dacic stated that “talks about imposing sanctions on Russia at this stage are out of questions since it goes against Serbian national interest” (Ministry of Foreign Affairs of the Republic of Serbia 2016).


On top of that, the current Croatian government sits in contrast with coalition governments in Serbia throughout both periods. Whilst Croatian coalition government after joining the EU showed unilateral support for the EU integration and distanced itself from Russia, the Serbian coalition government under current President Vucic is not as unequivocal in foreign policy and tends to shift preferences to both Moscow and Brussels. The Serbian government did not play a major role in deterring relations with Russia, but it had caused additional tensions with the EU, especially after 2014 when Belgrade refused to align with EU sanctions. It thus seems that Serbia’s foreign policy tends to be more straightforward toward Russia, while Croatian government stays prudent and follows the political climate in the EU.

## CONCLUSION

The Western Balkan region carries geostrategic significance for the security of the Mediterranean and Southern Europe, which serves as an incentive to international actors that strive to include the Western Balkans countries into any sort of regional (EU) and or/global (NATO) security complex. This article pinpointed possible complexities in the EU policy toward the region that are being exploited by foreign actors other than the EU itself. In the sample of two cases, Serbia showed a higher level of cooperation with Russia

in a bilateral, economic and strategic sense, and offered less successful performance during accession talks with the EU. The evidence of a country stalling the Europeanization process throughout the period of negative EU-Russia relations (2012-2016) was observed in *Chapter 31*. It proved that the alternation in EU-Russia relations has an impact on the overall outcome of WB countries' attitudes toward the EU. In Croatia's case, stances on Russia throughout both periods shifted in accordance with the EU official foreign policy narrative which caused severance of ties with Russia during the negative period of EU-Russia relations (2012-2016).

To that end, given strong Russian presence in certain Western Balkan countries, Europeanization becomes more costly for these countries due to their inability to align with and commit to every EU ruling during the accession talks. At the initial stage of negotiations, the EU is unable to impose strong conditionality toward candidate countries which then grants a promising niche to Russia to act as a security, financial and/or political guarantor in those countries. Europeanization may be hindered as long as Russia imposes itself as a security provider in the region. By having Russia as an ally, political leadership in Western Balkan countries is prone to be influenced by the Kremlin while aligning with EU decisions that negatively affect Russia, as it was the case with sanctions in 2014. After the adoption of the first round of sanctions in 2014, both PM Medvedev and President Putin visited Belgrade in order to ensure the continuity of political and strategic cooperation with Serbia. In this respect, traditionally good relations with Russia affect the rapprochement towards the EU during the accession negotiations.

Notwithstanding strong Russian presence in the Eastern Partnership (EaP) countries through military, security and economic mechanisms, this article revealed that the Kremlin's influence stretches to the Western Balkans as well. As a consequence, in the Western Balkans and former Soviet Space where Russia claims to have historical or privileged interests, countries experience strong Russian presence that is preventing them from committing completely to the horizontal institutionalization necessary for EU membership. Increasing tensions in the region across several Western Balkans countries urge for devotion and a clear strategy on behalf of the EU. For these reasons, although perceived as a peripheral question, the enlargement to the Western Balkans might be crucial at times when the capacity of the EU has been put to the test. 



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Indexing

Abstracting

## DOES TERRORISM MATTER IN SOUTH ASIAN PEACE PROCESS?: A PERSPECTIVE OF INDIA-PAKISTAN

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### *Abstract*

*The study has started with the sole argument that peace process of this region is now turned into a complex political theatre where terrorism is the major menace. The aim of this study is to scrupulously investigate the nature and substance of South Asian peace process with particular emphasis on India-Pakistan. Thus intends to extend the scope of further research on peace process through linking it with terrorism. The methodology of this research relied largely on qualitative analysis. Methodologically, the study does not directly address the policies of the South Asian countries rather it uses already available literature of policy experts to research the linkage between terrorism and peace process, test their correlations (whether it is positive or negative) in context to South Asia, and to conclusively make a judgment based on the research question-to what extent the incidence of terrorism is hindering the progress of South Asian peace process?*

*Keywords: South Asia, Terrorism, Peace Process*

## INTRODUCTION

The term “peace process” implies the existence of a structure, continuity and some understanding of the outcomes it seeks to achieve (Sajad 2012, 3). Based on this view the present study on South Asian peace process has revealed that, it lacks two (i.e. continuity and understanding) of the three above mentioned elements. The study starts with the sole argument that peace process of this region is now turned into a complex political theatre where terrorism is the major menace. Further in this complex playhouse of politics, the process and ingredient of peace talks are found as not related. At this stage, understanding the difficulties inherent in the peace process is critical to assess. As such the study has

made a review of the existing related literatures on South Asian peace (Ahmad 2014, Ahmad and Varun 1998, Aiyar 2011, Andley 2007, Armon 1998, Ashraf 2009, Ashutosh 2007) and has divided the peace process under two broad category-intra-state peace process (i.e. CHT peace Accord, ethnic conflict and peace process in Sri Lanka, Northeast Accords which includes Assam-Bodo Accords; Mizo Accords & Naga Accords, Afghan Peace Process) and inter-state or regional peace process (i.e. Indo-Pak peace process). It not denying that intra-state peace process is not without importance but for a better understanding of the fact here author has focused only on the inter-state peace process with particular emphasis on India-Pakistan peace process to examine whether terrorism is working as a barrier or not. In order to reach to the possible research outcomes the study has firstly shade lights on the nature of South Asian peace process to identify the major barriers of ensuring sustainable peace.

An exploration of the essence of South Asian peace process has identified a close link between the will of the political parties and peace process where the former are always intends to maximize their political interests through patronizing terrorism. Clare Castillejo (2016, 1) has shown in an analysis that in the case of most of the South Asian states political parties have played very different roles in relations to both the grievances and struggles that have fuelled conflict and attempts to ensure endurable peace. Based on the findings of Clare Castillejo (2016, 1) the study has argued that the tendency of the political parties to increase their dominance within the state partially works as an entrance door for the terrorists. Taken this argument into consideration the study has selected “Does Terrorism Matter in South Asian Peace Process?: A Perspective of India-Pakistan” as the title of the research to cover how terrorism matters in South Asian peace process.

The very rationality of this study is that it may facilitate the scope of further research on South Asian peace process and terrorism through contributing to the realm of knowledge. In fact, study on South Asian peace process is very important. Considering the futile outcomes of recent peace process between South Asian states it may be very rational to conduct a research to find out the actual causes of such failure of South Asian peace process. Although several factors are responsible for the slow outcomes of peace negotiations between South Asian nations (e.g. armed conflicts, mistrust, corruption, intra-state conflicts), the study presented here has focused only on terrorism as the root cause of the failure of peace process within the region.

This is because, today South Asia generally evokes the image of a region which is plagued by violent religious extremism where groups like the *Taliban*, *Al-Qaeda* and *Lashkar-e Tayyeba* (LeT) are active. As a result most of the South Asian nations are still facing the problem of terrorism, and if anything, the problem has only intensified in several cases.

Under the above context this study has outlined the trends setting of terrorism and peace process in the South Asian region. Though the structural factors obtaining in the region have made cooperation an imperative for the countries like India and Pakistan, their endeavors towards cooperation have not been rewarded with trust and enduring relationships (Dhruba 2002, 206). This study is a primary part of this endeavor and has focused on the incidence of terrorism in South Asian states, particularly, in India and Pakistan to know how the prevalence of terrorism hinders the process of peace.

A number of research has already concluded on South Asian peace process and terrorism (i.e. Raja2012, Awasthi 2009, Arif 2010, Suban 2016, Akbar 2011, Banerjee and

Gert 2003, J.N. Dixit 1995 and so on) but there is a few completed research works focusing on the linkage between South Asian peace process and terrorism (i.e. S D 2002, Anand 2012 and a few more). As such it is expected that, the outputs of this study may be an important contribution in the realm of knowledge. It may be worthy to mention that the present study has tried to identify the loop wholes of South Asian peace process with their possible solutions and this may be an important contribution to conduct further research on peace process and terrorism in South Asia. Accordingly, considering the contemporary political environment of the South Asian region the outputs of this research may play a vital role to find out the ways of combating terrorism to foster peace initiatives.

To reach to such outputs the study has dwelled upon the history of the peace process since its inception in the earlier period. In the context of India-Pakistan peace process the study has examined the impact of Mumbai terrorist attack on 26/11. A critical observation of the inter-play of bilateral relations between India and Pakistan has revealed that, however the state parties have already started negotiation to solve their inter-state conflicts, the prospects are still now in a *status quo* position. In South Asian context several factors are responsible for such *status quo* of peace negotiations process. Among them one of the driving factors is the failure of the South Asian states to address the issue of terrorism. Under this argument, it will be rational to mention the example of India-Pakistan military stand-off of 2001-2002 which took place against the backdrop of the “War on Terror” in the region. The attack on the Jammu and Kashmir state assembly in Srinagar on October 1, 2001 and subsequent attack on the Indian Parliament on December 13, 2001 precipitated a 10-month military stand-off between the two countries (Shaheen 2010, 3). It may be pertinent to mention that Pakistan for the first time condemned the attack on the state assembly and the Indian Parliament. Based on the above discussions the study elucidates on the concept of a peace process and its spoilers in the context of relations among the South Asian states with particular emphasis on relations between India-Pakistan.

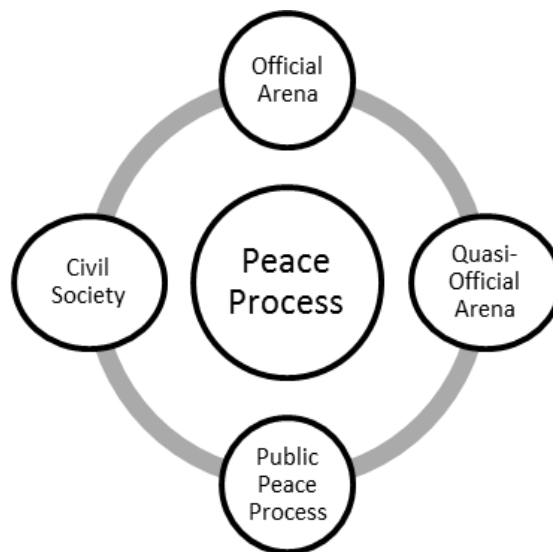
The methodology of this research relied largely on qualitative analysis. Quantitative methodology has been used in this research to a limited extent. It was a field of inquiry cutting across several disciplines and subject matter. The study has also followed an analytical model to make an assessment on to what extent terrorism affects the South Asian peace process. Methodologically, the study does not directly address the policies of the South Asian countries but rather uses already available literatures of policy experts to research the linkage between terrorism and peace process, test their correlations (whether it is positive or negative) in context to South Asia, and to conclusively make a judgment based on the research question-to what extent the incidence of terrorism is hindering the progress of South Asian peace process? The study is entirely based on secondary sources of data and has used several scholarly literatures (i.e. Sajad 2012, Ashutosh 2007, Shaheen 2010 and so on)-to conduct an analysis that contextualizes the assertions of the literatures, assesses the impact of terrorist incidence in South Asian peace process. The study has divided in to six sections. The second section has made a theoretical discussion on the concept of peace process and terrorism with a linkage between the two in the context of South Asia. The third section has tried to explore whether terrorism works as a barrier to South Asian peace process or not. In this regard the case of India-Pakistan peace process has taken in to consideration under the pretext of Mumbai terror attack. The fourth section has focused on the findings of the study and the last section has made concluding remarks with few policy options.



## **CONCEPTUALIZING PEACE PROCESS AND TERRORISM IN THE SOUTH ASIAN CONTEXT**

Peace process is generally perceived as something inherently positive and an optimistic upshot in itself to be backed at any means. Such a common view about peace process has indicated that a person, an organization or anything too influential who opposes peace process is routinely listed as an enemy of peace. However the above indication tends to heighten the expectation about the possible outcomes of peace process, an acceptance of this sight in to consideration in the context of South Asia has revealed that the records of outcome and long term effectiveness of peace process are really mixed. In this region the prevalence of armed conflict and terrorism do not lead to any formal peace process or any formal peace agreements. In between these two barriers (armed conflict and terrorism) to bring sustainable peace terrorism is considered as a major threat. So it could be said that a peace process may be failed even if it does address the key issues of the armed conflict and represent a genuine attempt to move forward to resolve them. Based on this statement the present section attempts to theoretically conceptualize peace process and terrorism in the South Asian context. It is expected that such theoretical conceptualization may help to identify the linkage between peace process and terrorism in the context of this region.

The theoretical concept of peace process is assessed in this section in line with the view of Harold Saunders, Timothy Sisk, S.Y. Bowland and such other prominent scholars. In this section it has argued that peace process is considered as a linked term of peace. To ensure peace it is necessary to take several initiatives like-conventional diplomacy, arbitration, conflict resolution and so on. Such initiatives to bring peace are often called as peace process. This is well established by the view of Harold Saunders (2001, 483), who opined peace process as a political process in which conflicts are resolved by peaceful means. Peace process is a mixture of politics, diplomacy, changing relationships, negotiation, mediation, and dialogue in both official and unofficial arenas (Harold Saunders 2001, 483). Saunders says that, peace process operate simultaneously in four arenas (Diagram 1).



**Diagram 1: Four Areas of Operating Peace Process**

The official mediated peace process is referred to as *track 1* diplomacy. *Track 2* then refer to as quasi-official peace process by conflict resolution professionals, usually non-governmental and unofficial groups and individuals, often parallel to and in support of *track 1*. This is the arena that Susan Allen Nan (1999) in her essay on Track I-Track II Coordination calls track one-and-a half. The people involved are outside of government, but have close ties to government and trade information back and forth. Public Peace Process is the arena of sustained dialogue between non-officials, who try to address the "human" (as opposed to governmental) causes of conflict-perceptions, stereotypes, distrust, and sense of hopelessness. In regard to civil society it may be said that this is the arena where civilians live and work. It is comprised of networks of relationships, often between disputing groups. In intractable conflicts, these relationships break down, causing tears in the framework of civil society which must be rebuilt in any peace process.

In the context of South Asia the effectiveness of the above mentioned areas of operating peace process may not be an easy task to imagine. This is because factor like terrorism often works as a challenge to the effectual working such operating system. As such measured like confidence building, disarmament as well as stable political environment may help to avert this sort of threat to the functioning of peace process. In this case the view of Timothy Sisk (2001, 787) can best be cited who clarifies peace process as step-by-step reciprocal moves to build confidence, resolve gnarly issues such as disarmament, and carefully define the future through the design of new political institutions. In other terms, a peace process is an intricate dance of steps-choreographed by third-party mediators-among parties in conflict that help to gradually exchange war for peace (Timothy 2001, 787). Exchange war for peace suggests that, Tim is limiting his definition to violent international and civil conflicts. An analysis of the clarification of Timothy Sisk has further revealed that as a first step the South Asian peace process must move forward to build confidence through eradicating distrust between or among the participating parties to make peace process as successful. This is because if the concerned parties have failed to build confidence then terrorism may take the opportunity to turn such generous steps to ensure peace as vain one. As a step to make peace process as successful Nicole Ball divide it into two stages and each of these into two phases (Nicole 2001, 721-722). The first stage of a peace process is cessation of violent conflict. This breaks up into two phases-negotiation and cessation of hostilities. The second stage is peace building, which moves from a transition phase to a consolidation phase. The objectives of each of these phases are shown in the Table 1 below.

**Table 1: Peace process in Countries with Negotiated Peace Settlement (Source: Nicole 2001, 721-722)**

STAGES	CESSATION OF CONFLICTS		PEACE BUILDING	
Phases	Negotiations	Cessation of Hostilities	Transition	Consolidation
<b>Main Objectives</b>	Agreeing on key issues to enable fighting to stop	Signing peace accords Establishing cease-fire Separating Forces	Establishing a government with adequate legitimacy to enable it to rule effectively Implementing reforms to build political institutions and establish security Inaugurating economic and social revitalization Promoting societal reconciliation	Continuing and deepening reform process Continuing economic and social recovery efforts Continuing promotion of societal reconciliation

As can be seen from this table, the peace agreement, on a timeline, is left of middle, meaning as long as it may take to agree to a peace settlement, implementing that settlement takes even longer. In one of his more pessimistic, but perhaps often realistic observations, peace builder and scholar John Paul (1998) often observes that getting out of a conflict takes as long as it takes to get into it. A consideration of the observation of John Paul (1998) in the context of South Asia has indicated the very rationality of his scrutiny. It may be pertinent to mention that South Asia is one of the most conflict prone areas of the world where intra-state and inter-state conflict are so acute that peace process often become failed because the states authority of this region are facing challenges to settle it. The single basic reason of facing such challenges is the prevalence of terrorism in the states this region. As for instance the India-Pakistan conflict over Kashmir issue can best be cited. As such in this section based on the observation of Paul (1998) it is argued that, whereas the term ‘peace’ is labeled as bliss, the word “terrorism” is considered as a barrier to peaceful South Asia which often caused by state violence. To understand the meaning of terrorism a theoretical insight may be necessary. In fact the definitions of terrorism are varies from state to state. In its popular understanding the term “terrorism” tends to refer to an act that is wrong, evil, illegitimate, illegal, and a crime (Alex 2010, 7). The term has come to be used to describe a wide range of violent and sometimes not-so violent, conduct (especially in the hands of the media since 11 September 2001).

A theoretical description of terrorism can best be sketched by five basic explanations (i.e. instrumental approach; organizational approach; multi-casual approach, political or structural approach and psychological approach) for how the conspiratorial organizations that practices terrorism behave. It is pertinent to mention that, each of the above approaches may be necessary to understanding terrorism and its consequences. This is because analysis of each approach yields different policy recommendations. Taken this into consideration

five approaches of terrorism study which are derived from established bodies of theory are presented sequentially in order to set out the logical premises and the policy implications of each.

Justification of these above approaches in the South Asian context reveals that, terrorism is an effect of direct violence and is considered as a major hindrance to foster peace. The instrumental approach, the organizational process theory, the multi-casual approach, the political approach and the psychological approach of terrorism may be the best way to understand the concept of terrorism from theoretical perspective. Whereas the instrumental approach assess that, act of terrorism represent a strategic choice, the organizational process theory considered the act of terrorism as the outcomes of internal group dynamic. The organizational process theory of terrorism is best relevant in the context of South Asia where various internal groups are still conducting their terrorist activities to ensure their dominance.

### **WHETHER TERRORISM WORKS AS A BARRIER TO SOUTH ASIAN PEACE PROCESS OR NOT?**

The success of any peace process largely depends on bilateral trust. In the South Asian context it is found that, terrorism often works as the root cause of mistrust among the south Asian states and thus disrupts the efforts of peace process between states of this region. So it could be said that, terrorism has been negatively playing a critical role in the way of peace process in South Asia. As such, in order to scrutiny the impact of terrorism on peace process of this region it will be rational to discuss first how terrorism affects the bilateral relations through creating a feeling of mistrust. This could best be illustrated through the bilateral relations between India-Pakistan, India-Bangladesh, and India-Sri Lanka.

The instrumental approaches of terrorism study have revealed a clear example in the case of South Asia where an attitude of acquiescence or even encouragement has been adopted by one state towards terrorist violence in or on the other states to create a barrier to bring internal peace. Such situations have naturally resulted in added acrimony and tensions between the two neighboring states (i.e. India-Pakistan, India-Bangladesh, India-Sri Lanka) and this ultimately caused the failure of peace process. In this case one can recall the influence of India-Sri Lanka relations on Sri Lankan peace process during the early years of Tamil insurgency, before 1987. The operations of Tamil militants in Sri Lanka from their safe sanctuaries and bases in India gave rise to serious strains in Sri Lankan peace process.

Just prior to the signing of India-Sri Lanka Agreement of July 1987, on the ethnic conflict, the government of India had directly intervened, (in early June 1987), under the pretext of dropping food supplies to the beleaguered Tamil militant groups (S D Muni 2002, 11). Perhaps India had its own reasons for this intervention, but this period (from the late seventies till July 1987) witnessed tremendous acrimony in India-Sri Lanka relations (S D Muni 1993, 10). The peace process efforts of India with her other neighboring states (i.e. Pakistan, Bangladesh) have also hindered by the impact of terrorism.

In case of Bangladesh, however, the present government led by Awami League has adopted strong anti-terrorism actions, the continuing complains of India regarding ISI activities and shelter as well as support provided to the northeast insurgents constitutes an area of tensions (*The Independent* December 16, 2001). Such complain often creates

mistrust between India and Bangladesh and thus hinder the talks on border peace. So it is evident that, trans-border terrorism is the negative factor in the case of India-Bangladesh border peace.

In the same way the India-Pakistan peace process presents the worst case of terrorism spoiling bilateral relations. The terrorist groups of Pakistan are still continuing their terrorist activities against India in the name of 'freedom movement' in Kashmir (S D Muni 2002, 12). These terrorist activities may not really end even with the resolution of the Kashmir problem, which in any case looks remote. President General Musharaf has in fact said so soon after assuming power in 1999 that, Pakistan has always used force in disturbing the bilateral *status quo* and the grand objective behind sponsoring terrorism seems to be a manifestation of ISI's resolve to weaken India internally (S D Muni 1993, 12). As such, India is insisting on ending cross border terrorism as a pre-condition for having normal communications and relations with Pakistan seems to be a desperate policy posture.

It may be worthy to mention that India was on the verge of going to war with Pakistan to force an end to this terrorism (S D Muni 2002, 12). It may still come to that dangerous point quickly even after the de-mobilization of the Indian forces ordered in early November 2002 (S D Muni 2002, 12). The mistrust and bitterness between these two states are too acute that the strategic analysts in India are still interested to organizer counter-terrorist attacks on Pakistan (Bharat 2002). As such, it may be now a generally perceived view that terrorism is main cause for the failure of India-Pakistan peace process.

In South Asia the degree of hostility fueled by terrorism between or among the states has been conditioned by two factors namely-the degree and nature of involvement of the state in sponsoring terrorism against the other one, and secondly, the approach to terrorism in the victim state (S D Muni 2002, 12). These two factors are often works as a hindrance to the way of peace process. As for example, the Pakistan sponsored terrorism is resulted in a very high degree of acrimony and conflict, leading to intense diplomatic rivalry and thus caused the failure of peace process to settle the disputes.

Terrorism in South Asia has been increasing on the borders of Pakistan and Afghanistan where the Taliban has escalated attacks over the last three years. Tensions in Pakistan escalated in 2007 when Presidential candidate Benazir Bhutto was assassinated, and deaths have increased by 20 % over the last two years. In India, there remains significant terrorist activity, including on the border between India and Pakistan.

A critical analysis of the linkage between terrorism and peace process has revealed that, countries with higher levels of terrorism perform significantly worse on the Pillars of Peace. Such framework of negative co-relations has also developed by IEP to assess the positive peace factors that create peaceful societies.

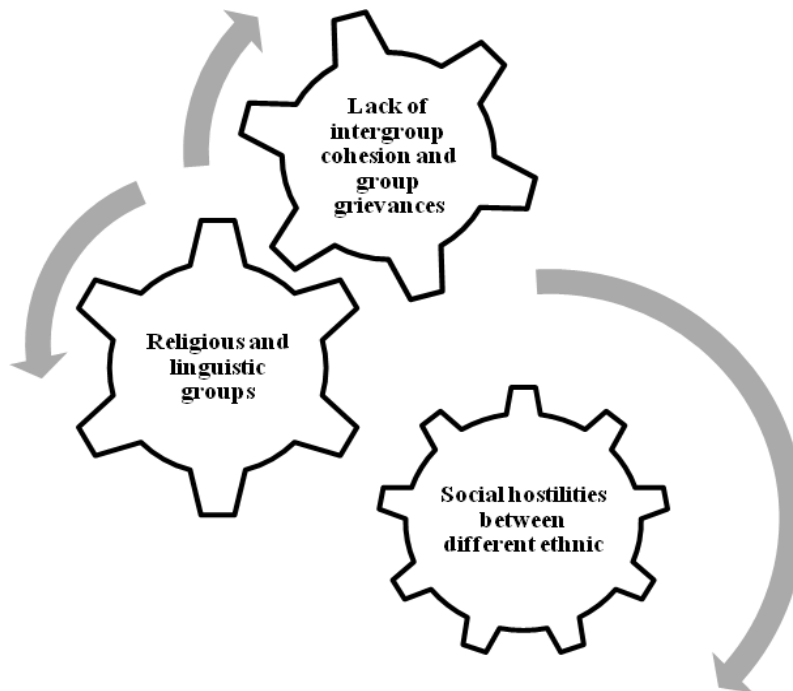
It is found that, three countries (i.e. Afghanistan, India, and Pakistan) with the most deaths from terrorism in 2013 performed 26 % worse on the Pillars of Peace compared to the international average. In South Asia these countries performed particularly poorly on three out of the eight Pillars of Peace. These three Pillars are-free flow of information, which captures the extent to which citizens can gain access to information, whether the media is free and independent. Peaceful countries tend to have free and independent media, which disseminate information in a way that leads to greater openness and helps individuals and civil society work together.

This leads to better decision-making and rational responses in times of crisis. Good relations with neighbors, which refers to the relations between individuals and between communities as well as to cross-border relations.

The above mentioned pillars are hardly prevalent in South Asia. India, Pakistan and Afghanistan are the three countries in this region with the highest levels of terrorism border each other. Acceptance of the rights of other, which include both the formal laws that guarantee basic freedoms as well as the informal social and cultural norms that relate to behaviors of citizens. Afghanistan is the worst performing country in this Pillar, with India and Pakistan also performing in the bottom three.

The most common context for the onset of terrorist violence is within an ongoing conflict. According to the GTD there were around 40,000 terrorist attacks in which at least one person was killed between 1970 and 2013. This number spans 178 countries. Of these 40,000 terrorist attacks, around 70 % occurred in countries that were at the time already immersed in serious political, civil, ethnic or international conflicts. This statistic remains true even if one removes terrorist attacks that have occurred in MENA and South Asia.

Considering all the above, this section has described the impact of terrorism in South Asian peace process through using socio-economic, political and conflict indicators which caused terrorist incidence. The study has found three groups of factors related to terrorist activity in South Asia. Countries that are weak on these factors and do not have high levels of terrorism are assessed as being at risk. These three groups of factors are shown in the Diagram 2 below.

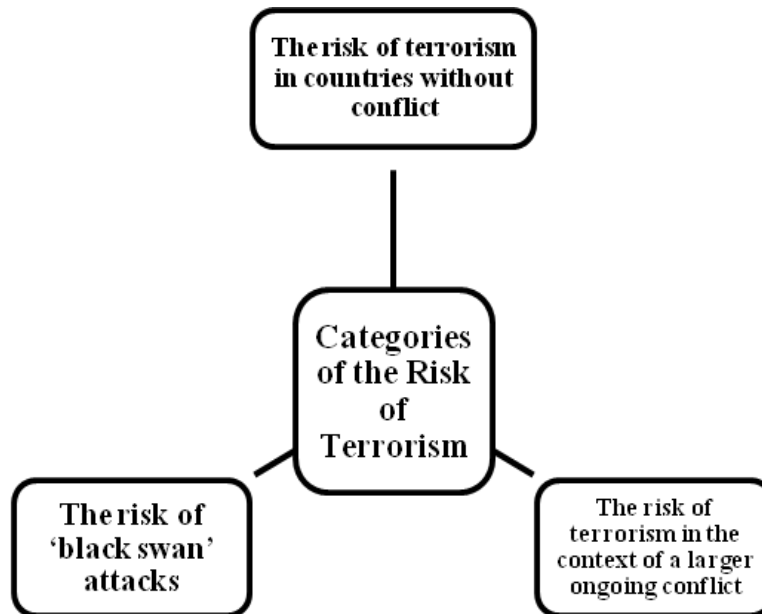


**Diagram 2: Factors Related to Terrorist Activity in South Asia**



The above factors as shown in the Diagram 2 related to the terrorist activities in South Asia has been identified through using different approaches of terrorism study (i.e. instrumental approach, organizational approach, multi-casual approach, psychological approach, and political or structural approach).

The organizational approach indicates that, the Taliban and other groups of Afghanistan are responsible for the ongoing terrorism in this state. An application of instrumental approach reveals that, grievance among different political groups often led to patronize terrorism in countries like Bangladesh and India particularly. Accordingly the application of multi-causal and psychological approach of terrorism study identified the social hostilities between different ethnic groups as one of the three factors related to terrorism in Pakistan and India. Likewise multi-casual approach identified religion based groups in Afghanistan (i.e. Taliban) as another factor related to terrorism. Based on the above three factors related to the terrorism in South Asia the study has grouped the risk of terrorism in this region into three categories as below.



**Diagram 3: Categories of the Risk of Terrorism in South Asia**

To scrutiny the impact of terrorism on South Asian Peace process this section has further identified few causes due to which the states of South Asia are still the playing ground of terrorism. Most remarkable among such causes are-weak state capacity, illegitimate and corrupt governments, powerful external actors upholding corrupt regimes, - extremist ideologies, historical violence and conflict, inequality in power, repression by foreign occupation or colonial powers, discrimination based on ethnic or religious origin, failure of the state to integrate dissident groups of emerging social classes; and social injustice.

Considering all the above discussions the study has made a concrete analysis to find out the impact of terrorism on India-Pakistan peace process. In regards to the India-Pakistan peace process, along with the prevalence and incidence of terrorists the impact of Mumbai terrorist attack on 26/11 has taken into consideration.

### ***Impact of Terrorism on India-Pakistan Peace Process***

Since the day of independence India-Pakistan has been passing a seesaw type of relationship. In this fluctuating nature of bilateral relations cross boarder terrorism is always considered as a threat. Even though both states are willing to develop a friendly mutual relations through arranging dialogue and peace process but such eagerness is still hardly seeing the face of success only due to terrorism. The terrorist incidences have blocked the way of peace process and also smashed all the hard work to bring peace between India and Pakistan.

The bilateral relations between these two states are based on accusation and counter accusation where the authority of India and Pakistan often raised voice and indicated each other as the epicenter of terrorism. As for instance, India blamed *Lashkar-e-Tayaba* for targeting the Indian nationalist. A mistrust is exist in bilateral relations between India and Pakistan and such mutual suspicion often led both states to take violent approach which is now considered as the most serious current problem that confronts India-Pakistan relations.

It is evident from scholarly analysis that, the threat of terrorism is prevalent both in India and Pakistan. In India terrorism has increased by 70 % from 2012 to 2013, with the number of deaths increasing from 238 to 404 (Global Terrorism Index 2014). The number of attacks also increased, with 55 more attacks in 2013 than 2012 (Global Terrorism Index 2014). However, the majority of terrorist attacks in India have low casualties. In 2013 around 70 % of attacks were non-lethal (Global Terrorism Index 2014). There were attacks by 43 different terrorist groups who can be categorized into three groups: Islamists, separatists, and communists.

In India the Communist terrorist groups are by far the most frequent perpetrators and the main cause of deaths (Global Terrorism Index 2014). Three Maoist communist groups claimed responsibility for 192 deaths in 2013, which was nearly half of all deaths from terrorism in India (Global Terrorism Index 2014). Police are overwhelmingly the biggest targets of Maoists, accounting for half of all deaths and injuries. This is mainly through armed assaults, which killed 85, and bombings and explosions, which killed 43 (Global Terrorism Index 2014). Kidnapping is also a common tactic of the Maoists where it is often used as a political tool to force the government to release Maoist prisoners.

The majority of Maoist attacks occurred in the provinces of Bihar, Chhattisgarh and Jharkhand. Generally, the dispute with Pakistan over Jammu and Kashmir is the source of Islamic terrorism. In 2013 three Islamist groups were responsible for around 15 % of deaths (Global Terrorism Index 2014). This includes *Hizbul Mujahideen*, an Islamist group allegedly based in Pakistan with a membership of around 15,000. This group was the only group in India to use suicide tactics in 2013 (Global Terrorism Index 2014).

Islamist groups in India commonly use armed assaults targeting the police or bombings targeting private citizens. The majority of attacks occur in Hyderabad in the south, a city with a 40 % Muslim population, and Jammu and Kashmir in the north, an area which is nearly two thirds Muslim (Global Terrorism Index 2014).

In September 2014 *Al-Qaeda* announced a presence in India, hoping to unite other Islamist groups. North east region of India has for the last three decades seen continual ethno-political unrest from ethnic secessionist movements. Separatist groups including in Assam, Bodoland, Kamtapur and Meghalaya were responsible for 16 % of deaths. Targeting private citizens, police and businesses, attacks are generally restricted to the geographic region as most of these groups are relatively small and have local claims (Global Terrorism Index 2014).

Likewise India terrorism in Pakistan is strongly influenced by its proximity to Afghanistan with most attacks occurring near the border involving the Taliban. As like as Afghanistan, terrorism increased significantly in Pakistan in 2013, with a 37 % increase in deaths and 28 % increase in injuries since 2012 (Global Terrorism Index 2014). Nearly half of all attacks had no groups that have claimed responsibility. The deadliest group in Pakistan in 2013, responsible for almost a quarter of all deaths and 49 % of all claimed attacks, is *Tehrik-i-Taliban Pakistan* (TTP), the Pakistani Taliban. Terrorism in Pakistan has a diverse array of actors (Global Terrorism Index 2014). In 2013 there were 23 different terrorist groups, down from 29 groups in 2012 (Global Terrorism Index 2014).

The above mentioned terrorist incidents and the number of casualties caused by it indicate that, India-Pakistan relations have been in a state of constant flux. In fact terrorism is playing a negative role in India-Pakistan peace process. At present the diplomatic relations between these two neighboring state represents the worst case of terrorism spoiling bilateral affairs (Saravanamuttu, 2003, 328). At this point the composite dialogue between India-Pakistan can best be cited. Although it was widely anticipated that the dialogue could be a possible solution to make an end of antagonism, but due to terrorist incidence occurred in Indian state it was failed to bring any real progress. While improvement is still a long time coming on many issues of the past such as Kashmir, the real immediate problem is the struggle against terrorism. Terrorism has held the region as hostage. It has obliterated any real developments in bilateral relations as well as people-to-people contact. In this context the study has made a historical survey of India-Pakistan peace process and has found that peace process of these two states denotes both its success and failure. Moreover these were also found as short-termed and replaced with renewed tensions due to trans-border terrorism (Table 2).

**Table 2: Issues in the India-Pakistan Peace Process**

ISSUES	INDIAN PERCEPTION	PAKISTANI PERCEPTION
<b>Kashmir as a core Conflict</b>	Disagreement	Agreement
<b>Kashmir as a Peripheral Conflict</b>	Agreement	Disagreement
<b>Land for peace formula</b>	Disagreement	Agreement
<b>An independent Kashmir</b>	Disagreement (at official level)	Disagreement (at official level)
<b>Autonomous Kashmir</b>	Partial agreement (at official level)	Partial agreement (at official level)
<b>Maintenance of <i>Status quo</i> on Kashmir</b>	Agreement	Disagreement
<b>Confidence-building measures</b>	Agreement	Partial agreement
<b>Third Party mediation</b>	Disagreement	Agreement
<b>Conditional signing of NPT</b>	Agreement	Agreement
<b>Maintenance of territorial <i>status quo</i></b>	Agreement	Disagreement
<b>Secret diplomacy</b>	Not successful	Not successful
<b>Impact of media</b>	Partly negative	Partly negative
<b>Role of Third Generation Peace process</b>	Positive	Positive
<b>Domestic pressure for peace</b>	Becoming significant	Becoming significant
<b>Perception of official elite for peace</b>	Not positive	Not positive
<b>Perception of unofficial elite for peace</b>	Positive	Positive

It must be mention that, however, the two nations to a little extent have succeeded to manage as well as reconcile some of their bilateral conflicts-division of assets, evacuation of property, distribution of river water (the Indus Water Treaty of 1960), demarcation of the Rann of Kutch Boundary in 1969, and Salal Dam agreement in 1978, such achievements have hardly succeeded to trim down feelings of insecurity, fear, and resentment. Other agreements reached in the 1980s and 1990s-such as the agreements on non-attack of each other's nuclear installations in 1988, cultural and communication in 1989, air and space violations in 1991, notification of military exercises in 1991, chemical weapons in 1992, and the conduct of each other's diplomats in 1992-were aimed to build confidence between the two neighbors, but so far have failed to normalize India-Pakistan ties to the level of mutual trust and cordiality (Umbreen 2010, 348-349). The Kashmir dispute and to a lesser extent the other unresolved conflicts like the nuclear issue, Wuller Barrage, and Sir Creek, have derailed the India-Pakistan normalization process (Umbreen 2010, 348-349).

Along with unresolved conflicts, the nuclear issue is also considered as an irritant in India-Pakistan relations. However this requires a solution but it still remains dormant due to the opposing views of both states. Just opposite to the perception of Indian authority Pakistan views that, the nuclear issue is really comes only because of the Kashmir. It must be noted that the two wars fought between India and Pakistan in 1965 and 1971 produced two accords, *Tashkent in January 1966* and *Simla in July 1972*, and provided opportunities for CM and resolution. In both cases the Kashmir dispute and the activities of the terrorists groups were accepted as a major source of tension and both New Delhi and Islamabad pledged to seek a peaceful resolution of that conflict.

In spite of such acceptance of the activities of terrorist groups as a common threat the South Asian region is still remain a hot bed for terrorist incidence and Pakistan as well as Afghanistan is considered as the striking point of terrorist attacks. The terrorist groups through their activities often create mistrust among the South Asian nations as stated earlier of this study. Only because of mutual suspicion a dilemma and *status quo* situation is often noticeable in the India-Pakistan peace process. This can be called as the gap between ideal and reality of peace process between the two states.

Due to the threat of terrorism which creates a situation of national insecurity, it is noticed that, ranging from the role of personalities to the holding of *track-II talks*, there exists sharp difference in the methodology of peace building in the two states. Table 3 depicts the enormous difference between the ideal and the reality in the India-Pakistan peace process.

**Table 3: Ideal and Reality of India-Pakistan peace Process**

	INDIA	PAKISTAN
<b>NON-INTERVENTION AND NON-INTERFERENCE IN EACH OTHER'S INTERNAL AFFAIRS</b>		
<b>Ideal</b>	Agreement	Agreement
<b>Reality</b>	Violation	Violation
<b>Disarmament and Arms Control</b>		
<b>Ideal</b>	Agreement	Agreement
<b>Reality</b>	Violation	violation
<b>Transparency in military CBMs</b>		
<b>Ideal</b>	Agreement	Agreement
<b>Reality</b>	Violation	Violation
<b>Promoting regional cooperation under SAARC</b>		
<b>Ideal</b>	Agreement	Agreement
<b>Reality</b>	Violation	Violation
<b>Promoting people to people interaction</b>		
<b>Ideal</b>	Agreement	Agreement
<b>Reality</b>	Supportive	Violation
<b>Support to the UN resolution on Kashmir</b>		
<b>Ideal</b>	Agreement	Agreement
<b>Reality</b>	Violation in the case of Jammu & Kashmir	Supportive
<b>Confidence building measures (military)</b>		
<b>Ideal</b>	Agreement	Agreement
<b>Reality</b>	Violation	Violation
<b>Confidence building measure (non-military)</b>		
<b>Ideal</b>	Agreement	Agreement
<b>Reality</b>	Supportive	Violation
<b>Third party mediation for the settlement of dispute</b>		
<b>Ideal</b>	Disagreement	Agreement
<b>Reality</b>	Violation	Supportive
<b>Fair treatment of diplomats</b>		
<b>Ideal</b>	Agreement	Agreement
<b>Reality</b>	Violation	Violation

The table shows that, in almost all issues India and Pakistan have said one thing but in reality have not hesitated in breaking their commitments. This has led to a credibility gap in India-Pakistan relations and the two countries are not taken seriously by the outside world when they subscribe to non-intervention in the internal affairs each other, nuclear non-proliferation, or promotion of regional cooperation. The gap between the ideal and reality is primarily the result of the immense mistrust and suspicion prevailing between the two countries, which derived from terrorism, and the inability of the two governments to control their hawkish elements. In the case of CBMs or resolution of the Kashmir dispute, both the government of India and Pakistan could not do much because they are unwilling to take the risk of antagonizing hard-liners. They feel insecure and vulnerable from the rapid growth of terrorism and were not in a position to alter the *status quo*.

In bilateral relations between India and Pakistan a usual cycle of troughs and crests has manifested over the course of nearly three years since the January 2004 statement. During this period there has hardly been any transformative event to either wreck the ongoing peace process or provide it a major boost. The two remarkable terrorist incidences that have threatened to disrupt the peace process in the immediate past are—firstly the attack on the make-shift temple at Ayodhya on July 6, 2005 (N. Ram, *The Hindu*, July 7, 2005) and the other was the serial blasts in Mumbai on July 11, 2006. It may be rational to mention that during an interaction with the press, Prime Minister Monmohan Singh made it clear that, the success of the peace process depended public opinion and support and that an incident like Ayodhya attack would seriously undermine the ability of Indian government to carry the support of people (N. Ram *The Hindu*, July 7, 2005).

So from the above discussions it is evident that, the Composite Dialogue process between India and Pakistan postponed for several times due to suspicion and mistrust caused by terrorism. Based on this finding the study has argued that India-Pakistan peace process halts because of trans-border terrorist activities.

### ***Mumbai Terrorist Attack 22/11, 2008***

The history of rambling bilateral relations and unsettled conflicting issues hardly allows India and Pakistan to affiliate a friendly diplomatic relations. This becomes further difficult for both states to harmonize their relations due to the recurrent of terrorist incidences which led India-Pakistan peace process in unceasing turmoil. In fact the peace initiatives between India and Pakistan are severely impacted by the terrorist incidences in both states. In that case the Mumbai terrorist attack can best be cited as an instance.

The India-Pakistan peace process had seriously hampered by the impact of Mumbai terror. As a consequence of this attack the bilateral relations between these two states had come once again in to the flash point of distrust and antagonism and thus resulted to a deadlock of peace process. The impact of this terrorist attack may be considered as two fold—firstly it had indulged the South Asian region as a whole in the wave of terrorism and secondly it had damaged the positive image of Pakistan by defaming it as a global nursery of terrorism. Further after Mumbai blast the ongoing peace process between India and Pakistan were postponed. Just after the horror attack India had canceled the cricket tour of Pakistan, the meeting of Indian Pakistan Joint Commission on Environment and tensed the visa issuance process for the Pakistani nationals.



As a reaction to this attack India had opened the entire alternative and highlighted its war alertness to encounter terrorism and focused to influence the international community against the extremism in Pakistan (Umbreen 2013, 35). Reversely Pakistan had responded with the same preparedness. During that time the Political and military authorities of Pakistan had made it clear that they were ready to face the war consequence in order to defend their country.

On the other hand the reaction of international community to this terror incidence have found as limitless particularly because of the direct assault on the foreigners (Umbreen 2013, 36). Indians claimed Mumbai terror the 26/11 as the 9/11 of India and urged for unjustified pressure on Pakistan to stop terrorism, ignoring their own extremist and fundamentalist group terrorism on the Indian Muslims (Umbreen 2013, 30). Even so one can hardly ignore the involvement of non-state actors of Pakistan in the Mumbai terrorist incidence. A cultivable ground of extremism and fundamentalism is also existed in Pakistan although terrorism is a western spawn which now appears as consistent threat to adjacent power and other fear holding states. (Umbreen 2013, 36). The actual fact is lying in the inborn religious acrimony in the two states of this region. At this point the India-Pakistan dispute may be described from the genetic sense where terrorism is playing critically a negative role. As such the ultimate resolution of conflict between these two states can only be possible through eradicating religious fundamentalism from both states.

## **FINDINGS**

A coherent, peaceful and harmonious relation among the South Asian nations is hardly possible if major steps are not taken by the member states of this region to combat terrorism. A consideration of relations among the states of this region from national security angle indicates the difficulties in interactions and understandings. Such obstructions in bilateral relations on the one hand have amplified the insecurity dilemma of the states and on the other hand facilitate the terrorists to become more active. Thus South Asian region now has become one of the terrorist prone areas of the world. In this study it has found that the growing nature of terrorist incidence has eroded the prospects of India-Pakistan peace process. The very rational cause of such slow outcomes of peace process may be that the two major states of this region are at the heart of terrorist threats.

The discussions in the section three of this study have showed that peace negotiation between India and Pakistan remain dormant in few cases (see table 3) while other saw the face of success. So the question is why some peace processes remain quiescent, and how they could be revived yields different answer in different cases. The section has illustrated the answer of these questions based on the research findings.

Study has found that, in South Asia the peace process often remain fainéant due to several causes like religious extremism, radicalism and fundamentalism and these three are termed as terrorism in this study. In the case of Pakistan the study has found the prevalence of Islamic fundamentalist who through their terrorist activities often pose a threat to the way of peace negotiations. In regard to the terrorism in Pakistan intelligence dictates that however their basic caused may be possible to address but a lingering solution of state terrorism in Pakistan will not be an easy task for the state authority itself. As for in Pakistan instance Islamic fundamentalism has turn out to be a key security concern for this fundamentalist ideology is still steadily taking lives as a tool to suicide bomb attacks.

Since the government of Pakistan have adopted a dichotomous attitude towards this threat but it may be a difficult task to prevent discretely. In support of this opinion with example it may be worthy to mention that a distinction has been made by the Pakistan Army between jihadi elements targeting Pakistan such as the Teharik-i-Taliban Pakistan (TTP), which is being suppressed. But, an Islamic outfit such as Gulbuddin Hekmatyar's Hezb-e-Islami that targets Afghanistan is patronized by Rawalpindi. So is the Quetta Shura headed by Mullah Omar. The Lashkar-e-Taiba (LeT) is treated with special benignity from the time when it targets India (Chandran & Chari 2012). This differentiated approach towards terrorism foredooms the India-Pakistan peace process to failure.

Considering all the above discussion it is evident that, peace remains latent in few cases predominantly due to the nature of terrorism. The study has found an increasing trend of inter-state terrorism in South Asia in the new millennium. The present section has identified that, the religious extremism, left-wing extremism, Islamic fundamentalism as well as various separatist political groups (i.e. Maoist, LTTE, Taliban and others) are through their terrorist activities (i.e. insurgency, murder etc.) are still hindering the inter-state peace process of the South Asian region. The findings of the research articulate that almost every country in South Asia is faced with the problem of terrorism-in one form or the other.

Lastly the study also found that, the most imminent danger to inter-state peace process is arise from cross-border and domestic terrorism. The difficulty in meeting the threat of cross-border terrorism is that, very often, it is externally sponsored and state-assisted, furthermore interacts with and exacerbates domestic terrorism.

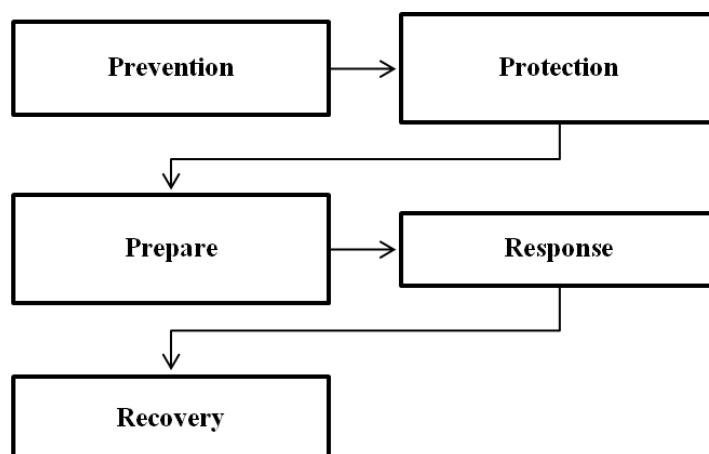
## **CONCLUSION**

In this study terrorism is considered as the hindrance of South Asian peace process. From the discussions of section three and four of this study it is almost evident that, in the South Asian context terrorism often works as a barrier in the way of peace process through creating mistrust among the state parties who are engaged to the peace negotiation process. In this regard the case of India and Pakistan is not an exceptional. The terrorists are the key spoiler in India-Pakistan peace process. As for instance, When the Mumbai tragedy struck, the then Foreign Minister of Pakistan, Shah Mehmood Qureshi, was on a visit to India to discuss important issues related to the ongoing dialogue process, including Kashmir, the Chenab River water dispute, and trade ties. Instead of engaging him, India committed the cardinal sin as regard to a peace process and blamed Islamabad for planning the attack within the first few hours of the terror attacks. Next, it put dialogue with Pakistan on hold. So it could be said that the success of India-Pakistan peace process ensues from efficiently identifying all the terrorists and collectively combating them.

Further it is suggested that both India and Pakistan need to address problem of terrorism by joint collaboration if they are really serious about establishing peace in South Asia. In this study India-Pakistan joint collaboration means the elimination of the tendency of double standards that inhibit the regional response capacity and be remained on the same page to be able to tackle the problem together because if these two states merely offer lip service, then it may render the task of countering terrorism even more arduous. This is because terrorism is not at all the threat for any particular state rather it is a regional

problem in the context of South Asia. That is why both India and Pakistan including other nations of South Asian region may need to take a collaborative approach towards averting the threat of terrorism.

As a prerequisite to make India-Pakistan peace process more fruitful the study has suggested the creation of a regional counter terrorism center to facilitate cooperation and integration among the South Asian states with the intention of combating terrorism. In regard to the proposed anti-terrorism center the study has also developed a strategic framework (Diagram 4) through which this could work more effectively under joint collaboration.



**Diagram 4: Strategic Framework of Counter Terrorism**

The prevention technique should be an inclusive one with joint efforts at regional level and its basic aim will may be detecting and deterring the threat of terrorism for the South Asian states. This strand may include-an increase to the observance of the general public, establishment of a South Asian intelligence network and diminution of susceptibility among the states of this region in regard to terrorist incidence as a way of promoting the sense of regionalism, prohibition of the spread of extremist ideologies, continuation of a stable regional political atmosphere, detection of those who promote violent extremism and abolition of the areas from where they function, bring to a halt the activities of the extremists to motivate the individuals to be recruited as a terrorist, or have already been recruited by extremists, and a step to address the grievances that are exploited by ideologies.

The Prepare strand will work in time of the occurrence of any terrorist incidence. In other words, this strategy will work to manage the ongoing attacks and will also need to be alert to avert the devastation of possible future terrorist incidence.

The Response strand must include a regional effort to increase the ability to respond effectively and immediately to terrorist attacks or threats of attack. This strand advocates for the creation of a regional security framework. In fact the effectiveness of this strategy is depends on such security framework. This is because if a regional security framework is created then under the direction of such security architecture it may be possible to make the

response strand as more effective coordination as regional level. Further three elements are considered in this study as prerequisite for the success of the response component. These include- risk identification and assessment, development of strategic know-how and lastly prompt response to terrorist incidence.

The efforts at regional level to restore a state of normality and abate the sufferings of the people who are directly harmed by the incidence of terrorism could be implemented through the recovery strand. To support the affected communities of South Asia this strategy must develop a regional recovery plan to be implemented by both governmental and nongovernmental agencies.

Implementation of such a framework in South Asian region will require developing cooperative security system where there will be a close cooperation among the South Asian states. All the concerned authority including government departments, security and intelligence agencies are needed to co-operate each other to make such security system as effective one. It is expected that a horizontal and vertical communication model among the concerned authority will may help to ensure the triumph of the cooperative security system to combat terrorism and thus pave the way of the success of South Asian peace process, particularly the peace process between India and Pakistan. As such it is the utmost duty of the South Asian nations particularly India and Pakistan to come together because neither can tackle the problem of terrorism unilaterally. Further it is hope that the initiation of India and Pakistan to adopt a cooperative security system will encourage the other states of this region to come under the umbrella of cooperative security.

In conclusion it can be said that, there is both skepticism and hope pinned to the peace talks in South Asia. India and Pakistan need to have trust, confidence, and a will to make this peace process into one which seeks a resolution of all conflicts inflicting on their relations. Terrorists and extremists need to be uprooted or their ideology ought to be changed. Many times the peace process has been derailed due to the presence of the parochial interests of the elites who often patronage terrorism.

So if the authority of both states failed to tackle terrorism then the prospects of peace process seems to be bleak. This is actually for the prevalence of terrorism and insurgency which have aroused from the concept of religious and left wing extremism, fundamentalism, and communalism reveals the existence of spoiler problems in South Asian peace process.

At the end it would not be an exaggeration to say that in South Asia the clampdown of terrorism is not seriously adopted yet as an objective at regional level. Consequently terrorism related issues (i.e. distrust, accusation and counter accusation and so on) have superimposed extreme impairment to the South Asian initiatives for organizing peace process. The credibility of sustainable peace within the region has highly eroded by such issues. This is because terrorism inflicted mutual relations hardly allow the initiation of a successful peace process. At this stance the basic question which have aroused is that-how can South Asian peace process become functional and effective if any nation of this region is bent upon hiring terrorists and use of power as devices of its engagement with the other?

It is suggested that a further research is needed to seek the answer of this question and the present study may facilitate conduct further research to reach to the answer of this query.



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Indexing

Abstracting

## POLITICAL RELATIONS BETWEEN TURKEY AND GEORGIA IN THE POST-SOVIET ERA

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### *Abstract*

*Georgia and Turkey has become important partners in the Caucasus region after independence of Georgia in 1991. Two countries preferred to follow pro-West policies in their foreign policy against Russian factor. They have geopolitical importance and geostrategic location for Russia throughout history. This article analyzes foreign policies of Georgia and Turkey and examines Baku-Tbilisi-Ceyhan Crude Oil Pipeline as a common foreign policy between them. The paper found out that this kind of projects between Georgia and Turkey would make them important actors rising from regional level to global level in the future.*

*Keywords: Turkish Foreign Policy, Baku-Tbilisi-Ceyhan Crude Oil Pipeline, Georgian Foreign Policy, Russia, geopolitical importance*

## INTRODUCTION

Georgia is one of the important actors in the Caucasus and South Caucasus. Its geographical and geostrategic location make it significant player for the Caucasus and the world. Especially, after the demise of Soviet Union, its importance is getting more understandable for the West. Russian Federation as a neighboring state of Georgia started to intervene in the Caucasus and Georgia. Russia intensified the conflicts between Abkhazia-Georgia and South Ossetia-Georgia by supporting the breakaway regions. This situation pushed Georgia to follow pro-western solutions and policies for Georgian foreign policy. Hence, Georgia started to arrange its policies compatible with the western institutions. And it announced its desire to integrate into NATO and the EU. By the way, Turkey was first included in the Caucasus after the collapse of USSR by recognizing newly



independent states in the region. Then, it used the ethnic roots with Azerbaijan to be included in the region. Turkey used important discourses such as status quo policy, territorial integration policy and so forth. These discourses made Turkey and Georgia closer partners within similar interests and goals in the region. Georgia-Turkey has established important pipeline projects to provide energy transportation from Caspian region to the west without Russia and Iran. In these projects, Azerbaijan, Georgia and Turkey have significant position for the Western countries. And these countries, especially Turkey and Georgia maintained their aspirations for the integration with the Western institutions –the EU aspiration for Turkey, NATO and the EU aspirations for Georgia.

Georgia-Turkey foreign affairs on the Baku-Tbilisi-Ceyhan crude oil pipeline made them significant players in the region and world policy. Therefore, locations of the countries affected and are still affecting both countries foreign policies *via* BTC pipeline project. Furthermore, Georgia-Turkey foreign affairs would lead them toward being important actors from regional level to global level in the near future.

### **GEORGIAN FOREIGN POLICY**

Georgia has a short history as an independent state after the fall of USSR. Georgia has had a complicated and problematic past since it became independent. At the same time, it is a reality that it is a weak and small country. It has a difficult neighborhood position with Iran, Russia and Turkey which are nervous about each other's activities in the South Caucasus (MacFarlane, 2012). It can be stated that Georgia was surrounded by nervous relations' network after independence.

Furthermore, Georgia has an importance location in the Caucasus region which is "bounded by Russia in the North, Turkey in the Southwest, Armenia in the Southeast, Azerbaijan in the East and Black Sea on the West" (Kaeter 2004, 105). Russia is seen as a threat for Georgians because of intervention of Russia to Georgian territory. By the way, Azerbaijan and Armenia are neighboring states of Georgia. Turkey and Black Sea are important gates for Georgia that opens to the West. Turkey is also important partner for Georgia.

Georgia had a series of problems after independence. Weak and powerless state structure of Georgia was on the top of the most important issues which caused the state to face a fragmented Georgia issue and separatists and ethnic group in its territory (Burke, 2009). There are more than 100 ethnic groups, including large groups of Armenians, Russians, Azerbaijani, Abkhaz, Ossets and Adjarians among 5 million population of Georgia. So that, it experienced difficult transition period after taking its freedom from Soviet Unions (Kaeter, 2004). This multi-ethnicity is a result of the geopolitical location of Georgia and the Caucasus.

On the other side, Georgia faced a number of crises in point of economic transition, setting a rule of law, creating civil society and democratic political culture as many post-Soviet states did after independence. Especially, it was in a struggle or fight with three regions including Abkhazia, South Ossetia and Adjara. Abkhazia and South Ossetia remain in their struggle with Georgia to be independent (Burke, 2009). These two regions take place in the north of Georgia. Russia supports them against Georgian government. This remaining struggle changes economy, security, democracy and foreign policy of Georgia.

An important feature of geopolitical location of Georgia is to be on the Great Silk Road. So, Great Silk Road started to function in the II century B.C. which connected China to the Western countries. One route of this road crossing the Caspian Sea was connected with the Caucasus, passed through Georgia and from Phasis (Poti) by the Black Sea reached Byzantium and Rome (Asatiani, 2011).

The Russian negative influences on the region caused ethnic conflicts in Georgia such as Abkhazia and South Ossetia conflicts, and the conflict over a region between Azerbaijan and Armenia, Nagorno Karabakh conflict (Nichol, 2010). So, Russian policy over the region is still working by causing the conflicts among the region states because Russia sees Georgia and other regional countries as part of close foreign policy and sphere of influence after collapse of USSR.

Georgia's foreign policy motivation, overwhelmed by regional clashes and strained relations with Russia over Abkhazia, South Ossetia and Chechnya, moved toward more conspicuous integration with the EU and NATO. This motivation resulted in a proposed article in 2000, which highlighted joining into Western establishments. What profoundly propagated Georgia's swing toward the West was the Transcaucasian energy corridor, or Transport Corridor Europe-Caucasus-Asia (TRACECA), and the Baku-Tbilisi-Ceyhan (BTC) oil pipeline (Jones and Kakhishvili, 2013).

Turkey continues to be Georgia's "strategic partner" through collaborating over a railway project (the Baku-Tbilisi-Kars railroad), which will advance commerce and tourism activities by rail from Asia to Europe, bypassing Armenia and evading Russian domain. Georgian-Turkish relations, despite the suspicions of Georgian people on the objects of Turkish investment and a long history of shared doubt, depend on common financial and strategic concentration (Jones and Kakhishvili, 2013).

Georgian foreign policy researches on some key points including the economy, political culture, national minorities, public opinion, institutional structures and authority in Georgia. Particularly, economy is a vital marker that influences the foreign policy. Georgia has self-capability to address and decide on its own particular interior vulnerabilities, monetary security for its subjects, and social administrations, for example, wellbeing, natural and pension supports. Georgia's interior social and political emergencies were personally associated with fizzled monetary approaches and affected noticeably its capacity to seek after remote arrangement objectives (Jones and Kakhishvili, 2013). For example, the NATO and the EU are interested in economically successful democracy because Georgia should integrate with similar institutions whose interests and values are same with the West (Georgia's Security Challenges And Policy Recommendations, 2012).

Georgia occupies strategic location at an important geopolitical juncture between South East Europe, the Black Sea littoral, the Caspian Basin, and the Middle East though it has no important natural sources in the South Caucasus (Georgia's Security Challenges And Policy Recommendations, 2012). When its location is considered, Georgia has to face significant security risks by depending on domestic situation, regional instability which has important results, an important regional power, an unwillingness of Euro-Atlantic actors to take significant risks, and significant vulnerability to global economic risks (MacFarlane, 2012). Hence, Georgia has also important concepts for keeping its important positions, maintaining its foreign policy and consolidating its state structure against internal and external interventions or strives.

For instance, the National Security Concept, Georgia's national values are arrayed that:

- *Sovereignty and territorial integrity* that determine nonintervention to Georgia's internal policy, and its recognition as an independent state in international relations
- *Freedom* of citizens' social and political rights,
- *Democracy and the rule of law* that emphasize democracy and supreme of law in the country,
- *Security* for country and its institutions, and citizens' security within international recognized borders,
- *Prosperity* that underlines granted basic human rights, and provided economic freedom,
- *Peace* that is included in the ensured regional and international security and stability of freedom, independence, unity, development and peace of Georgia. (National Security Concept of Georgia, n.d)

These values show that Georgia's almost all national values contradict with Russian behaviors against Georgia. 20 percent of Georgian territory is occupied by Russia within stationed 10.000 troops (Georgia's Security Challenges And Policy Recommendations, 2012) Moreover, Nika Chitadze (2012) summarizes these points that "the concept pays attention to fundamental national values for Georgia such as independence, freedom, democracy and rule of law, prosperity, peace and security. Firstly, Georgia rejects interventions of any state in its territory and domestic affairs. Secondly, it guarantees human rights and freedoms for individuals and groups residing on its territory. Thirdly, it provides peace in the country by using democratic rules and the law, and arranging political system of Georgia. The last, Georgian state institution makes regulations in economy and rules for Georgia's prosperity and security". This situation proves that sovereignty and territorial integrity, freedom, security, prosperity and peace are under threat for Georgia. So, Russia violated Georgian national values.

Georgia has national interests within national values in the concept. National security considers independence, territorial integrity, and sovereignty of people to develop national values and interests in the context of constitutional order in a state governed by rule of law. These values and points are very important for a country's foreign policy principles and priorities. In other words, national security interests are the key concepts for the foreign policy of countries (Chitadze, 2012).

Some of these principles seek Georgia's security and policy. These can be summarized as;

- Especially, future of NATO, its partners and its aspirants should be made clear by NATO. Georgia is ambitious to integrate into NATO because of security issues in the region. In case of any decline of NATO, Georgia may negatively be affected.
- Economic development, democracy, and security issues must be recovered for integration into Euro-Atlantic institutions of Georgia.
- A membership in an effective collective defense organization will provide Georgia to feel more secure in its region where rapid changes exist. Moreover,

membership of NATO as a collective defense organization help relations of Georgia and Russia improved.

- Self-defense and military capabilities have to be enhanced to NATO's standards with well-educated armed forces (Georgia's Security Challenges And Policy Recommendations, 2012).

Security issue is one of the most important problems influencing Georgian existence as an independent state in international relations. Particularly, its neighboring states cause this security issue. So, integration into NATO and other organizations will make relations between Georgia and its neighboring states easier, especially with Russian Federation. In short, Georgia's vital surroundings incorporate a rapidly changing political scene, fast technological changes, differing qualities of potential enemies and constrained military capabilities (Chitadze, 2012). Enhancing military capabilities, educated armed forces, integration with security organizations, analyzing environment and adversaries are key points for Georgia.

On the other side, defense policy as an important branch of foreign policy has some priorities compatible with national security policy. These priorities include followings:

- Prevention of and protection from direct aggression
- NATO integration and international cooperation
- Ability to assess strategic environment policy
- Provide stability in the Caucasus region
- Contribution to the international security environment (Chitadze, 2012).

According to National Security Concept of Georgia, nation's security, stability and significant role in the whole region depend on Georgia's membership of NATO. It is believed that NATO is going to guarantee these to Georgia. In addition, all reforms related to NATO membership help to strengthen the country's democratic institutions and foster its defense capabilities. Even any military aggression of Russian federation wouldn't change Georgia's path toward democratic developments and NATO integration. Otherwise, not only Georgia needs NATO's contribution to Georgia's future but also NATO will have an active partner to share responsibility of collective security for international missions. For instance, to be participant of International Security Force in Afghanistan is a really important example for this (National Security Concept of Georgia).

While NATO incorporation contains some portion of security arrangement and improvement for Georgia, the EU is identified as part of country's political and monetary advancement for Georgia. The integration of Georgia with the EU bolsters fair establishments, security, and also financial coordination with the EU. Henceforth, expanding institutional structures of participation with the EU is vital also for Georgia. It considers the European Neighborhood Arrangement and Eastern Organization as vital factors adding to Georgia's integration into the EU. In the meantime, Georgia foresees more dynamic EU inclusion to resolve the Russian-Georgian clashes. It is essential that the EU and different members of the international community have perceived the control of Georgian occupation by the Russian Federation. Subsequently, Georgia appreciates resolution to this influence of the European Parliament received on November 17, 2011 (National Security Concept of Georgia).

## **TURKISH FOREIGN POLICY**

Turkey has a wide relation network on the map because of its geography, geostrategic and geopolitical position, and history. Turkey has followed pro-west policies during its existence after the World War II. Since it has struggled with Russia throughout history, it has taken part in the West Block during and after the Cold War. Relations with international organizations and institutions were based on the Euro-Atlantic developments. It kept its sovereignty and territorial integrity in the forefront of its foreign policy. Regarding the fact that Turkey's relations with the Caucasus and Central Asia are important chances for Turkey to be an effective power in the region. Turkey was seen as a regional power which comprises an area from the North Caucasus to Persian Gulf and from Adriatic to Great Wall by the world leaders after the collapse of Soviet Union (Çelikpala, 2010).

The main factors that affect the Caucasus policy of Turkey are to provide and support independent political and economic stability, peace and cooperation, and pro-western values in the region. Moreover, keeping and recognizing independency and territorial integrity of the former republics is the primary policy for Turkey. So, Turkey has recognized almost all independent states of former Soviet republics and started diplomatic relations with them except Armenia (Çelikpala, 2010). While Turkey making these real, it was highly careful not to provoke Russian Federation in the first contact with the Caucasus states because of the risks caused by Russian aggressive policy toward Turkey (Punsmann, 2011).

Turkish Foreign Policy was constituted on two obligatory reasons which influence all alternatives of foreign policy. These are Turkey's geography and long-standing ties with the neighboring states. These two sensible elements gave Turkey the role of a key local security player in the Europe, the Balkans, the Caucasus, the Middle East, the Mediterranean and the Black Sea regions (I. Turkey's Perspectives and Policies on Security Issues)

Turkey should have the capacity to utilize a more extensive mixture of military, financial, social and political approaches in a superior coordination to go up against contemporary security challenges. At the end of the day, Turkey expected to utilize a "thorough methodology" to experience today's security (I. Turkey's Perspectives and Policies on Security Issues). Consequently, it began to follow the westbound remote strategy after World War II and targeted close, profound and escalated participation with the West. Thus, it is a member of NATO from 1952 to present, and a candidate state for the EU (Doster, 2012).

Turkey is located on a geopolitical place at the crossing point of Europe, Asia and Africa, in the region of important commercial lines, energy corridors and controversial areas, in particular the Balkans, Caucasus and the Middle East. (Udum, 2007). This affected Turkish foreign policy as a source of positive and negative influence. Turkey is not only an Asian and a European country but only a Balkan, a Mediterranean, a Middle East, a Black Sea and a Caucasus country according to its strategic position (Sener, 2013). On the other hand, Turkey's location gives a particular focal status which contrasts from other central nations like Germany, Russia or Iran. Turkey holds an ideal spot since it is both an Asian and a European country and is also near Africa through the Eastern Mediterranean.

As far as history, society and its region of impact, according to Davutoglu, Turkey is a Central Eastern, Balkan, Caucasian, Central Asian, Caspian, Mediterranean, Gulf and Black Sea nation (Kozakou-Marcoullis, 2009).

Republic of Turkey has anxiety on security depending on geographical and historical realities of the country. This anxiety means to keep and carry on Turkey's sovereignty to eliminate threats towards it. Moreover, anxiety of security comprises its existing geography and geopolitical/geostrategic legacy coming from Ottoman Empire. Turkey has Bosphorus and the Dardanelles as strategic points which make Turkey important globally. On the other hand, international borders of Turkey also cause anxiety of security for Turkey because Turkey can feel naturally insecure in international relations as a result of large numbers of borders (Sener, 2013). And, Turkey shares its borders with Bulgaria and Greece in the West side of Turkey; Georgia, Armenia and Iran in the East side of Turkey; and Syria and Iraq in the Southeast side (Udum, 2007). And Russian Federation is also Turkey's neighbor which is linked with Black Sea border in the Northern part of Turkey.

Besides, while Turkey have realized the importance of its location and feel anxiety over its security, it is as yet looking for a higher global and local status, which is tried to be accomplished by joining the EU and serving the Euro-Atlantic group as a fundamental transit and social-civilizational "bridge" between the East and the West. In the long term, Ankara moves in the direction of joining the group of big "players" in charge of the European nations' energy security and expansion of energy resources for the EU, which represents the arrangements to unite the Caucasus and Central Asia into a solitary energy transportation framework that would extend Europe via Turkey (Yuldasheva 2008, 52).

Military capacity influences Turkey's diplomatic and political relations, and usage of security parameters in international community. So, it has significant military capacity with regard to main weapon systems, number of military personals, level of education, operation ability and mobilization system. In fact, one of the most important reasons for Turkey to have significant developments in military capacity is that crisis and conflicts in the Balkans, Middle East and the Caucasus influence foreign and security policy of Turkey. Any risk, threat or challenge in Greece, Armenia, or Syria can easily affect Turkey's policies as well. Otherwise, Turkey has relations with the Euro-Atlantic organizations as a provider of security and stability opposite to the position of consumer of stability and security in the Euro-Atlantic region (Sener, 2013).

It has been clarified that Turkey's national interests and foreign policy are affected by some specific subjects. Anxiety on security, military capacity and geostrategic location are the most important factors that lead Turkey's foreign policy. Turkey has relations with pro-western organizations because of its territorial importance in international relations. Its location helped Turkey enhance its military capacity to get rid of anxiety on security because of a series of international borders and neighboring states. It joined the NATO against the East Block during and after World War II.

Turkish foreign policy principles were arrayed by Davutoglu that:

There should be a balance between security and democracy in a country in order to be able to establish an area of influence in its environment, so Turkish foreign policy should focus on this,

- Zero problem with neighbor states' policy is inside of this principles to set important foreign policy,

- Enhancing relations with neighboring regions to be in those regions as Turkey became active in the Balkans, in the Middle East, in the Caucasus and in Central Asia. Hence, Turkey should use any chance within institutions or organizations in those regions,
- Adherence to multi-dimensional policy whereby with other important actors aims to be a modifier, not a competitor,
- A proactive foreign policy would make future clear for Turkey's steps in its policies (Kozakou-Marcoullis, 2009).

Turkish Security and Defense Policy as part of Turkish Foreign Policy have historically concentrated on regional cooperation, contribution to peace and security in its region, and alliance with international and regional organizations (Defence and Security Policy of the Turkish Republic, 2011). As Atatürk who is the founder of Republic of Turkey declared "Peace at home, peace in the world", the declaration has become the center of foreign policy priorities.

According to Sener (2013) "there are three basic principles and functions in Turkish Foreign Policy: to be supporter of status quo, to be pro-western and to be pragmatist and realist in foreign policy". Turkey has never been an expansionist state, and it doesn't demand or want to be shaped by borders. In the other words, it is not a revisionist state. Additionally, Turkey has not joined any war except Cyprus Peace Operation in 1974 since the declaration of Republic of Turkey. It has tried to be dynamic in near geography and follow global and regional balance (Doster, 2012). Especially, its borders and geography pushed it to be dynamic in the region because almost all developments in its close neighbors have easily influenced Turkish foreign policy. In spite of all of these, Turkey as a supporter of status quo follows two important points in its foreign policy. These are carrying on existing borders and maintaining existing balance in its international relations. Moreover, Turkish Foreign Policy implemented balance policy in two different ways. First is to attempt to set a balance between the West and anti-west. Second is to attempt to provide a balance among all factors which comprise the West. For instance, Turkey has rested on the Soviet Russia against the West between 1920 and 1936. Other example is that it rested on Great Britain against fascist Italy between 1936 and 1945 years, and resting on the USA against Soviet Russia threat from 1946 to present (Sener, 2013).

Turkey is seeking the EU membership because Turkey will constitute a true asset for the Union, with its geostrategic location, large economic potential, educated and dynamic population and with its visionary and multidimensional foreign policy. Turkey's accession to the EU will bring an added value to the Union, not a burden. Carrying this relationship forward with the ultimate goal of membership is a strategic importance for both Turkey and the EU (Turkey-EU Relations, n.d.). The contemporary Turkey aspires to join the EU as a full member and to be a leading economic and political actor in Eurasia. It envisages an international mission that is no longer peripheral and confined to the outskirts of Europe. Our mission envisions a pivotal role in the emerging Eurasian reality (Cem, 2013).

Considering these, Turkey needs to have good relations with a lot of country and states for its interests. During and after cold war, Turkey has security and territorial integrity anxieties because of the East Block or Russian expansionism policy toward

Turkey. Furthermore, Turkey's geopolitical and geographical location shows that political order after the Cold War provided many new independent states to be reappeared or reconfirmed by international arena. Moreover, almost all these "new" states - in the Balkans, in the Caucasus or in Central Asia - have mutual history, religion or language with Turkey. This provides Turkey to set a new international environment of historical and cultural dimensions in these regions (Cem, 2013). Hence, Turkey's anxieties couldn't prevent its role in these regions. Turkey can help them and develop itself by being members of the international organizations. While these organizations assist Turkey to keep itself from threats, they make Turkey a key figure in these regions.

As mentioned above, Turkey is a Middle Eastern, Balkan, Caucasian, Central Asian, Caspian, Mediterranean, Gulf and Black Sea country, so it has to be interested in the developments and organizations related to these regions in foreign policy. Briefly, international organizations in foreign policy provide links to Turkey to be in touch with those regions. Turkey can gain its interests via organizations. These organizations mean cooperation among the regions and countries. Security-based organizations make wars difficult among states, while economic-based organizations or unions make economy and prosperity enhanced among countries, even regions. Most of them provide prosperity, peace, democracy, liberalist economy, free market economy, security and rule of law for each state which is members of them.

Turkey should be careful in its foreign policy toward the South Caucasus since this region has historical richness and diversity, and economic potential and opportunity within the possible conflicts. Especially, natural gas and oil reserves make the region significant for Russia and the rest of the world within the rivalries on the opportunities in the region. The South Caucasus realized itself as a strategic juncture between the East and the West as other powers did because it is a key transit route for energy and resources from Central Asia to the West (Hampson, 2013) via BTC and other pipeline projects.

### **GEORGIA-TURKEY COMMON PROJECT: BAKU-TBILISI-CEYHAN CRUDE OIL PIPELINE**

In the world which is getting more global, demands for energy is rising by shaping not only economic policies but also strategic policies of the countries. For this reason, Baku-Tbilisi-Ceyhan crude oil pipeline is established for transportation of Caspian Oil to the west and the world. This project constitutes the most important part of the East-West energy corridor. Geopolitical importance of Turkey would increase and Georgia would be in the forefront as an important transition country in the world (Baku-Tiflis-Ceyhan HPBH Proje Direktörlüğü).

The vital significance of the district has expanded with local undertakings, for example, the Baku-Tbilisi-Ceyhan (BTC) Unrefined petroleum Pipeline, Baku-Tbilisi-Erzurum (BTE) Normal Gas Pipeline, and Baku-Tbilisi-Kars Railroad. Subsequently, Suleymanov (2013) states that:

The Baku-Tbilisi-Ceyhan oil, and Baku-Tbilisi-Erzurum gas pipelines do not just give a noteworthy access to Caspian hydrocarbons and establish the framework for the East-West transportation hall but they also put Turkey in a position on the world map as a critical transition point for vitality assets. Baku-Tbilisi-Ceyhan (BTC) oil pipeline, Blue Stream and Baku-Tbilisi-



Erzurum (BTE) natural gas pipeline projects are significant and geopolitical projections of the region. These projects provide Turkey to become second important actor in the Eurasian energy corridor (Usul, 2013).

Especially, BTC is the cornerstone of Turkey's policy toward South Caucasus (Punsmann, 2011) since the route and construction of this project is planned according to regional balances and relations with Turkey's allies and their policies. Moreover, this provided to set up a regional balance based on Turkey-Azerbaijan-Georgia by supplying energy to western markets (Çelikpala, 2010).

Despite the fact that BTE and Baku-Tbilisi-Kars Railroad are critical to Georgia, the Baku-Tbilisi-Ceyhan (BTC) pipeline venture is more vital for Georgia financially as well as politically. At the point when BTC pipeline undertaking was imagined, Georgia had a progression of obstructions to tackle in the local and global nature. These were the shortcoming of the state, corruption, and Russia's approach towards Georgia (Papava, 2005).

Meanwhile, Papava (2005) states that BTC will produce "monetary advantages and open doors for an upgraded personal satisfaction for those whom our business effects". Bearing this in mind, specific goals of investment programs in Georgia are as follows:

- Improved economic opportunities and increased incomes;
- A developed and improved agricultural sector;
- Enhancement of the quality of life by means of revitalized social infrastructure;
- Improved ability of communities to take independent initiatives, organize and manage social development.

When it is considered in the setting of geopolitical sense, Georgia's area is the hugest for the South Caucasus, particularly if one considers the contention between the two different countries of the location: Armenia and Azerbaijan. Georgia has picked pro-Western strategies for its geostrategic significance (Papava, 2005).

BTC pipeline adds to the development of Georgia's part in both the Black Sea and the Caspian regions. In the meantime, fruitful abuse of its transitional capacity later on will rely on irreversibility of fair changes, and predictable compatibility of the technique of incorporation with the European and Transoceanic associations (Papava, 2005).


## **CONCLUSION**

Geopolitical and geostrategic locations of Georgia and Turkey pushed them to set important relations and policies toward the west. Especially, Russian aggression and intervention to Georgian territory were important reasons for Georgia's pro-western policies. Turkey had similar issues with Russia. Turkey has also anxiety on security as a result of Russian expansionist behaviors. Turkey has important channels that make Turkey globally important. Hence, it has joined to NATO to provide security against Russia and other revisionist states. Georgia has followed the integration into Euro-Atlantic institutions while Turkey is following the EU membership. Furthermore, BTC project has been an important opportunity for two countries.

Turkey should be careful in its foreign policy toward the South Caucasus since this region has historical richness and diversity, and economic potential and opportunity within the possible conflicts. Especially, natural gas and oil reserves make this region significant for Russia and the rest of the world who can rival on the opportunities in the region. The South Caucasus realized itself as a strategic juncture between the East and the West as other powers did because it is a key transit route for energy and resources from Central Asia to the West via BTC and other pipeline projects.

After the collapse of the Soviet Union, Turkey has found a space to develop its relations with the Caucasian states including Azerbaijan and Georgia. Turkey started to set good relations with these states by respecting their territorial integrity and independency. Georgia has a border with Turkey and shares similar anxieties with Turkey in foreign policy.

Moreover, Georgia and Turkey have similar priorities in their foreign policies such as the integration into the western institutions. While Turkey as a member of NATO is waiting for the membership of the EU, Georgia has also aspirations for both NATO and the EU. This kind of factors and similarities provided two countries and Azerbaijan to have close relations with each other. As a natural result of this, BTC pipeline was established between Turkey, Georgia and Azerbaijan to transport the oil and natural gas from Central Asia and the Caspian Sea and the Caucasus to the West without Russia and Iran. Within this pipeline project, aspirations of Azerbaijan and Georgia have increased to set relations with the West. In addition to this, Turkey was important figure for these two countries to connect them to the West since Russian Federation has started to be effective in the region after the fall of Soviet Union to struggle with external actors. However, Turkey's status quo policy ensured to gain Georgia's trust in foreign policy, especially in economic relations with Turkey. Russian aggression toward Georgia intervened and supported the breakaway regions against Georgian government.

In conclusion, while Georgia is the key figure in the South Caucasus, Turkey has important partners in the Caucasus for its energy and economic needs. Furthermore, BTC pipeline may be considered as an important step for the European energy security. Besides, it can be evaluated as a good chance or policy for Georgia, as a potential candidate for membership for Euro-Atlantic institutions in the near future. Georgia and Turkey are important partners in the regions. This partnership would provide stability in the Caucasus and important cooperation between Georgia, Turkey and Azerbaijan based on economic, politic and security concerns. Especially, Georgia-Turkey relations regulate the issues between Armenia-Turkey and Armenia-Azerbaijan by making Georgia as a transition country between Armenia and Turkey. 

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Indexing

Abstracting

## CONCESSION AS A PRECONDITION FOR RELATIVELY RESERVED RIGHTS OF THE FOREIGNERS IN THE REPUBLIC OF MACEDONIA: THE CASE OF SMALL HYDROELECTRIC PLANTS

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### *Abstract*

*Concession as a precondition for relatively reserved right, gives the foreigners almost equal rights as domestic citizens of the Republic of Macedonia. Our goal is to address the legal aspects and the procedure of giving the right to concession. This paper is mainly qualitative research of desk work on International private Law, Law on public procurements, Law on concessions and public private partnership in the Republic of Macedonia along with a case study on Concession on power plants in the Republic of Macedonia. Renewable energies are the future, which is why law researchers and law makers need to contribute in making of better laws that adapt to upcoming events in the energy field.*

*Keywords: concession, public procurement, Republic of Macedonia, foreigners, small hydroelectric plants*

## INTRODUCTION

In this paper we will write about the concession as relatively reserved right for foreigners in the Republic of Macedonia. First we will explain the meaning of foreigner and the right of concession as relatively reserved right for foreigners. Second we will continue with the importance of concessions on renewable energies and the importance of water power. Then, we will give an example for concessions on small hydroelectric plants in the Republic of Macedonia. Finally we will give our conclusion on the topic and encourage future research in this field for improving the law on concessions and private partnerships.

## THE RIGHTS OF FOREIGNERS

Foreigner is any natural person who does not have citizenship of the the Republic of Macedonia, i.e. legal entity that has no affiliation to the Republic of Macedonia. This means that the only criterion to distinguish the foreigners from domestic entities is the connection from legal character between the individual and the home country.

According to the international private law professors Poliksena Gavroska and Toni Deskoski (2011) in private legal relations arising in the territory of a country, foreigners can emerge as well as domestic natural and legal persons. For such relations, law experts say that the relations have a foreign element in their subject, related to the particular state by the fact that occur on its territory. The Government based on the right to sovereign authority on its territory and the people and things that are on it, legally regulates the possibility of such relations. In Roman law, this right of the state is expressed in the maxims: "*Quidquid est in teritorio, est etiam de teritorio*" and "*Qui in teritorio meo est, etiam meus subditus est*" (Fullmeth and Horwitz, 2011).

The foreigners are subjected to the rules of a state based on the fact that they have established relationship with its territory, apart from domestic entities that have established legal and related public-legal nature through nationality as natural persons, i.e. belonging to legal persons. When considering the relationship with the territory of a state which is much weaker than the legal relationship established by citizenship, it is clear that the right of foreigners to emerge as carriers of rights and obligations in private-legal relationship is not always equal to the right to home citizens as subjects of such relations.

The legal status of foreigners is the sum of legal norms that determine the possibility of foreign natural and legal entities to appear as holders of civil rights. This rules have general aim to determine whether foreigners on the territory of a country can acquire a family, inheritance, obligations and property rights, or to benefit from intellectual property rights.

The question is: whether and under what conditions foreigners can benefit certain private rights in the Republic of Macedonia? So this part of international law characterizes the use of the direct method of normalization of relations. Legislative authorities of certain countries, in principle are free in determining the content of their own rules on the legal status of foreigners. This means that it is up to the legislator whether a law will be made available to foreigners or not. Whether they (foreigners) will be able to benefit in full or in part and whether they need to meet some additional requirements and so on. Differentiation in the availability of private rights between domestic and foreign persons is not regarded as discrimination. Yet, such freedom of national legislative bodies is absolutely unlimited. They are associated with certain minimum civilized standards that are established primarily by sources of international public law, UN Charter, the Universal Declaration of human rights of 1948, Convention on the elimination of all Forms of racial discrimination of 1963, the European Convention on human rights in 1950 etc. In regulation, the legal status of foreigners is necessary to comply with the principles of public international law on one hand and with the principles of domestic law on the other hand, based on the principle of territorial sovereignty of the home, which means its right to regulate the legal position of all persons on its territory. In the legal theory there are many conditions for exercising relatively reserved rights of foreigners. Reciprocity, status of a refugee, decedent of certain ethnic group, special permission for inhabitation, actual domicile of home country and

special permission concession. In this paper we will focus on the right to concession as a condition for exercising the rights of foreigners. As Poliksena Gavroska and Toni Deskoski (2011) emphasized:

Using relatively reserved right under this condition implies foreigner to obtain approval from the public national authority with a specific legal act. This authorization is called a permit if it's issuance does not precede the conclusion of the user agreement, and if that approval can be revoked by the state authority that issued it. If approval is preceded by the conclusion of a user or the approval comes a contractual relationship with the user then called concession.

### ***Concession as relatively reserved right***

The Law on concession (General assembly of the Republic of Macedonia, 2012) in our legal system is governed by two types of laws: General Law and special Laws. General systemic law is the Law on concessions and public private partnership in 2012 and it regulates the conditions, manner and procedure for granting concessions, and the content of the concession contract and the rights and obligations of the parties to the concession terms. The special law, however, is governed area in which the concession is granted and from it comes the possibility of granting a concession on certain goods of general interest or to perform construction of public interest or performing public services. Examples include the Law on forests, water, etc.

### ***The Law on concession and public - private partnership***

This law (General assembly of the Republic of Macedonia, 2012), governing the award of concession for goods of general interest and Treaty establishing a public-private partnership, legal protection any person who has or had an interest in getting a deal, and he risked or risks being harmed in the process of awarding such an agreement, and other issues related to the concessions of common goods interest and contracts establishing a public private partnership.

The purpose of this law is to enable engagement for financing concession goods of common interest and agreement on the establishment of public-private partnership based on the principles of equality, transparency, non-discrimination, proportionality, mutual recognition, protection environment and efficiency in the process of concluding a concession for goods of general interest and an agreement on establishing public private partnerships, as well as quality and efficient performance of activities and services contract signed concession agreement for the establishment of public - private partnership. By now, Macedonian law seems to be fully in line with the European law view, according to which concession is a contract. And this is true in relation to public works concessions, as well as to service concessions. The subject of the concession may be performing a construction of public interest, providing public services or use of goods of common interest for the Republic of Macedonia. Prof. Francesco Goisis (2011) stated:

Public works concession is an onerous contract, to be executed in written, related to the realization, or executive design, or final design and realization of public works or of works of public utility, and of works to the former

structurally and directly connected, together with their functional and economic management, of the same type as a public works contract except for the fact that the consideration for the works has to be carried out consists either solely in the right to exploit the work or in this right together with payment.

The concession for construction is subject to construction of buildings concession by right of their management, use and maintain, without payment, partial and full payment by the Grantor. About the service concession Goisis (2011) underlined: “service concession is a contract of the same type as a public service contract except for the fact that the consideration for the provision of services consists either solely in the right to exploit the service or in this right together with payment”.

The concession of public services is subject carrying out activities which are legally designated as public services and consists of 1. the right to provide service without paying the Grantor, 2. the right to carry out public service fully or partially against payment by the Grantor and 3. the right to perform a public service including the management, use and maintain the facilities of the concession necessary to perform the public service. As Goisis (2011) continues the third kind of concession is a concession for good of general interest. The concession for goods of general interest is a contract different from concession public works and concession for public service as its object is the award of right to use goods of general interest (Goisis, 2011). The concession for goods of general interest is subject to the use of goods of common interest of the Republic of Macedonia and is executed by means of the Concessionaire. The concession involves establishing concessional terms. Parties in the concession relationship: Grantor and Concessionaire.

The Law on concession clearly states that there are two parties at the concession agreement. The “Grantor” is an entity that awarded the concession for goods of general interest, such as: the Republic of Macedonia, the municipalities and the City of Skopje. “Concessionaire” is domestic or foreign legal entity or natural person or a consortium with which the Grantor after the concession award procedure has concluded the concession agreement. Also, the Law on Concession and public - private partnerships includes:

- **Conducting preparatory actions**

To initiate a procedure for granting concession for goods of general interest and agreement on the establishment of public-private partnership, Grantor or the public partner makes the decision to initiate the procedure of concession for goods of general interest. The decision of paragraph 1 of this Article shall be adopted by the Grantor or the public partner based on a study of Article 16 paragraph 2 point 3 of this Law. When the Grantor is Macedonia’s decision under paragraph 1 of this Article shall be adopted by the Government on the proposal of Minister responsible for the area of the granted concession. When the Grantor or the public partner is municipality, municipality in Skopje or the city of Skopje, the decision of the Paragraph 1 of this Article shall be adopted by the Council of the municipality, the City of Skopje or the municipal council in the municipality as proposal from the Mayor.



- **Granting a concession (Article 18)**

The decision to initiate a procedure for granting concession for goods of general interest or contract establishing a public private partner contains:

- Explanation of the justification for granting concession for goods of general interest or contract establishing a public private partnership including explanation of the basis for identifying the type of contract, given the definition of a public private partnership of this law,
- Appointment of its objectives,
- Subject of the concession for goods of general interest or public-private partnership and the basic conditions for granting concession for goods of general interest or contract establishing a public private partnership
- The manner and the deadline will be conducted and the procedure
- The fee for issuance of tender documentation.

The form and content of the notice of award for public private partnership contract is realized as a public works concession or concession of public service by the Government of the Republic Macedonia and published according to the Law on public procurement (General assembly of the Republic of Macedonia, 2012).

- **The Commission for enforcement (Article 20)**

The Commission for enforcement proceedings (hereinafter: Commission), formed by the Government, on the proposal of the Minister of the area, for which the contract is awarded or by the mayor of municipality, the mayor of the City of Skopje or by the management body of certain institution. The Commission:

Prepares the tender documents, including the draft contract; Defines the criteria for awarding the contract; Organizes the process of applying and the applications; Determines the ability of the candidates and determines the candidates who have right to continue participation in the procedure; Determines the ability of bidders; Gives explanations and submits additional information and documents; Reviews and evaluates the bids and ranking of bidders in proposal for the first-ranked to be elected; Prepares a report on the evaluation of bids Proposal for annulment and Performs all other duties necessary for conducting the process (Article 21).

- **Contract (Article 40)**

The concession agreement regulates relations regarding the concession, the special purpose, subject and period of the concession; the form and conditions for the concession, and a description of the existing infrastructure, the rights and obligations of parties to the contract terms amount and method of payment of concession fee income, the share of income and sharing the risk of the concession; types, scope and deadlines for meeting the obligation to invest. The agreements prepared according to the Law of concessions shall be prepared in accordance with the tender documentation, advertisement or public

announcement and the decision to select the best possible offer. The Government may authorize the relevant minister to conclude the contract for concession for goods of general interest on behalf of the Government of the Republic of Macedonia. Municipal Council, the City Council and the municipal council in the city Skopje may authorize the Mayor to sign the concession contract for goods of common interest. The Law on obligations is *lex generalis* in terms of the Concession agreement and the Law on concessions and public private partnerships is a *lex specialis*.

- **Transmission of contract (Article 42)**

The concession contract for goods of general interest or agreement establishment of public-private partnership can be transferred by a written consent of the Grantor or the public partner, under the conditions set out in contract and without prejudice to the duration of the contract, unless special law otherwise provided. The contract for concession for goods of general interest can provide transfer rights and obligations under the contract, provided it does not jeopardize continuing operations and/or provision of service, quality of execution activity and price. In case of transfer of the concession for goods of general interest, the Grantor signs contract for transmission of the concession for goods of general interest under the terms and conditions set in the existing concession contract for goods of general interest. The transfer of shares or shares of the Concessionaire for the execution of the concession, can not be carried out without the written consent of the Grantor.

In this paper we will pay attention to the Concessions that are of interest for the Republic of Macedonia. We believe that the Energy sector has a big expansion now and will expand even more in the future, especially in the area of renewable resources. According to the (EU Directive, 2001) for promotion of renewable resources energy for promotion of green energy in the domestic market, there are several types of renewable energies: the wind, solar energy, hydro energy, geothermal energy, etc.

- **Concession contracts on small hydroelectric plants**

The interest of small hydroelectric plants (further hydro's) in the Republic of Macedonia is significantly increased. The ministry of economy started publishing public acquisitions. Small hydro plants are the most important renewable resource of electric energy. Everywhere in the world these energies are considered clean, renewable, and for this purpose countries give benefits as grants, tax reliefs, and bigger prices for electrical energy so called preferential tariffs. In the Republic of Macedonia there is significant hydroelectric potential that hasn't been exploited. According to the World association of small hydroelectric generators, small hydroelectric plants have power to produce electricity till 10 MW. The Republic of Macedonia as an EU candidate country is facing the challenges for efficient reforms in the society system. The principles of cooperation with the EU in the energy sector is intended to reflect the principles of market economy and the Treaty on the European Energy Charter and to develop in the direction of gradual integration into the European energy markets. The Republic of Macedonia is a signatory to several international agreements and conventions in the field of energy and environmental protection: Energy Charter Treaty, the Treaty establishing the Energy Community

Framework Convention UN Climate Change, Kyoto Protocol, the Statute of IRENA (International Agency for Renewable energy) and so on. Energy Community Treaty has the greatest significance given the fact that the country has committed to adapt and implement national legislation with EU legislation in the fields of energy, environment, competition, renewable energy and energy efficiency, and oil reserves. Key state institutions to create an energy policy and law enforcement agencies are: Ministry of Economy (Department of Energy), Energy Regulatory Commission and the Energy Agency. Given that the new law on energy, compared to the situation before these institutions were given greater responsibilities, it is intensive work on building and increasing the capacity of these institutions. It is necessary to comply with Energy package of EU Directives and to ensure full liberalization of the markets for electricity and natural gas. Key documents for the design and implementation of energy policy are the strategic documents adopted by the Government:

- Strategy of Energy Development,
- Strategy for renewable energy in the Republic of Macedonia, and
- Strategy on Energy Efficiency.

The Republic of Macedonia is a country with exceptionally low energy consumption *per capita* and exceptionally high energy consumption especially electricity per unit of GDP. In this context, more intensive measures are necessary in order to improve the energy efficiency in generation, transmission and distribution and power consumption. The environmental protection in the energy sector means acting through the energy efficiency, renewable energy, range of energy and modern technologies in terms of environmental quality, legislation, education and public awareness etc. Approximately 71% of the earth's surface is covered with water (US Geological survey, 1993) a resource that has always been central to human development. Hydropower is currently the second most used renewable source, first being the biomass. Europe is the first in production of the electricity, and the second is Asia. In 1982 a study was published of possible small and mini hydro power plants in Macedonia. This study is relevant today. It completely covers the hydropower potential of small watercourses in Macedonia to elevation 1500 meters above sea level. It includes an energy and economic classification by presenting data on investments and energy value, unit investment value, and cost per kilowatt/hour produced for every possible small hydrocentral. The study provides useful insights, primarily for possible interest from potential investors and preliminary indicators. This means that when considering each possible location, you need a full engineering and economic approach with consideration of local topographic, hydrological and geodetic bases.

- **Public announcements**

With the help of the World Bank for Reconstruction and Development (IBRD, 2007) criterias for granting concessions for construction of small hydropower plants in Macedonia are defined. Participation is open to all domestic and foreign legal entities and natural persons that submit tender documentation and that fulfill the conditions according to the tender documentation. The period of collection of tender documents is 30 days from the date of publication in the public notice in the local and foreign media. The deadline for submission of bids is 90 days from the date of expiry for obtaining the tender

documentation. According to the public announcement the concession of water is given for 20 years with a possible extension for the next 20 years.

- **Tender documentation**

According to the Article 23 of the Law on concessions and public private partnerships of the Republic of Macedonia 2012 the tender documentation should include chapters on the tender procedure, the financial, economic capability of the bidder and availability of the bidder, and the method of forming the bid, required documents and the possibilities of the technical solution. Also tender documentation should include annexes relating the forms of bank guarantees, security and performance guarantees and concession offer. The locations of 406 small hydro plants and basic parameters are taken from the study since 1982. The tender documentation bidders are advised to visit the locations of the site themselves, to ensure accountability data for the preparation of the bid. Special attention should be paid to the guarantees required as follows: tender guarantee, bank guarantee, bank guarantee for a single fee, water and a guarantee of construction. Bidders must submit evidence of their capability, including:

- Document for registered activity issued by the competent authority,
- Information on the economic and financial situation of the subject in the last 3 years
- 3. Confirmation by a public authority in the country for paid taxes and other public charges,
- Document of the public authority that there is no procedure for bankruptcy,
- Document from public organ that there is no procedure for liquidation,
- Statements document that there are no criminal proceedings against the bidder,
- A statement that the person will be collectively and jointly responsible for the liability of the concession,
- Statement by the person applying interest or each member of the consortium that should they be awarded the concession, everyone will be collectively and solidary liable for the obligations of the concession.
- A document (by public authority) that the legal entity has not been imposed infringement proceedings for prohibiting the professional activity,
- Statement by the responsible person in the legal entity that the legal entity or a member of its managing or supervisory authority have not been convicted by a court for the following crimes: corruption, fraud and money laundering, certified by a public authority.
- A signed statement from all members of consortiums for joint participation in the tender.

The concession of water is given for a period of 23 years according to the Law on waters and the Law on concessions and public private partnerships. The obligations of the Concessionaire after the signing of the agreement are as follows:


- Preparation of project documentation for hydroelectric plant for which the offer is given,
- Providing all permits and meeting the requirements defined in the appropriate permits under legislation of the Republic of Macedonia
- Construction of the objectives according to the tender documentation,

- Providing the necessary permits for operation of hydroelectric plant, according to the legislation in the country,
- Management and maintenance of all facilities within the plant,
- According to the Law on concessions and public private partnerships the Concessionaire is obliged to pay:
  - One time fee for concession on water, within 30 days of signing the contract.
  - Annual concession fee amounting to 2% from the average price of electricity produced each year.

The purchase of eclectic energy is guaranteed. It will be bought by the operator of the electricity market. Tariffs for the purchase of electricity are approved by the Energy Regulatory Commission. The concession contract for construction was signed between the Grantor (Government) and the Concessionaire. The Grantor selects Concessionaire and granting them the right to use the water to produce electricity and to design, construct operate, maintain, and manage small hydro plants on site in accordance with the contract, the tender documentation, which is obliged to be answered for fulfillment of contractual obligations.

## **CONCLUSION**

The relatively reserved rights for foreigners at the territory of the Republic of Macedonia give the foreigners the same rights as domestic citizens with few exceptions. Foreigners are not allowed to vote on elections or to be members in political parties. That means that foreigners can invest in small hydro plants as well as domestic citizens if the principle of reciprocity with the domestic country of the foreigner is met.

The procedure for getting the concession contract fully complies with the EU Directive on the award of concession contracts (European parliament and Council, 2014). Although, the procedure is not simple, it's necessary in order to protect the interest of the Republic of Macedonia and the private party. The biro on public procurements is responsible for implementing the Law on concession and public private partnerships and guarantees fair competition for domestic and foreign companies in the race for the right to concession. We hope that our research can help to review the whole investment possibilities on Small hydro plants in the Republic of Macedonia for future domestic and foreign investors. So far there are no bigger remarks on the Republic of Macedonian legislation, taking into account the modern trends of investing in foreign developing countries. Renewable energies are the future, which is why law researchers and law makers need to contribute in making of better laws that adapt to upcoming events in the energy field. 

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